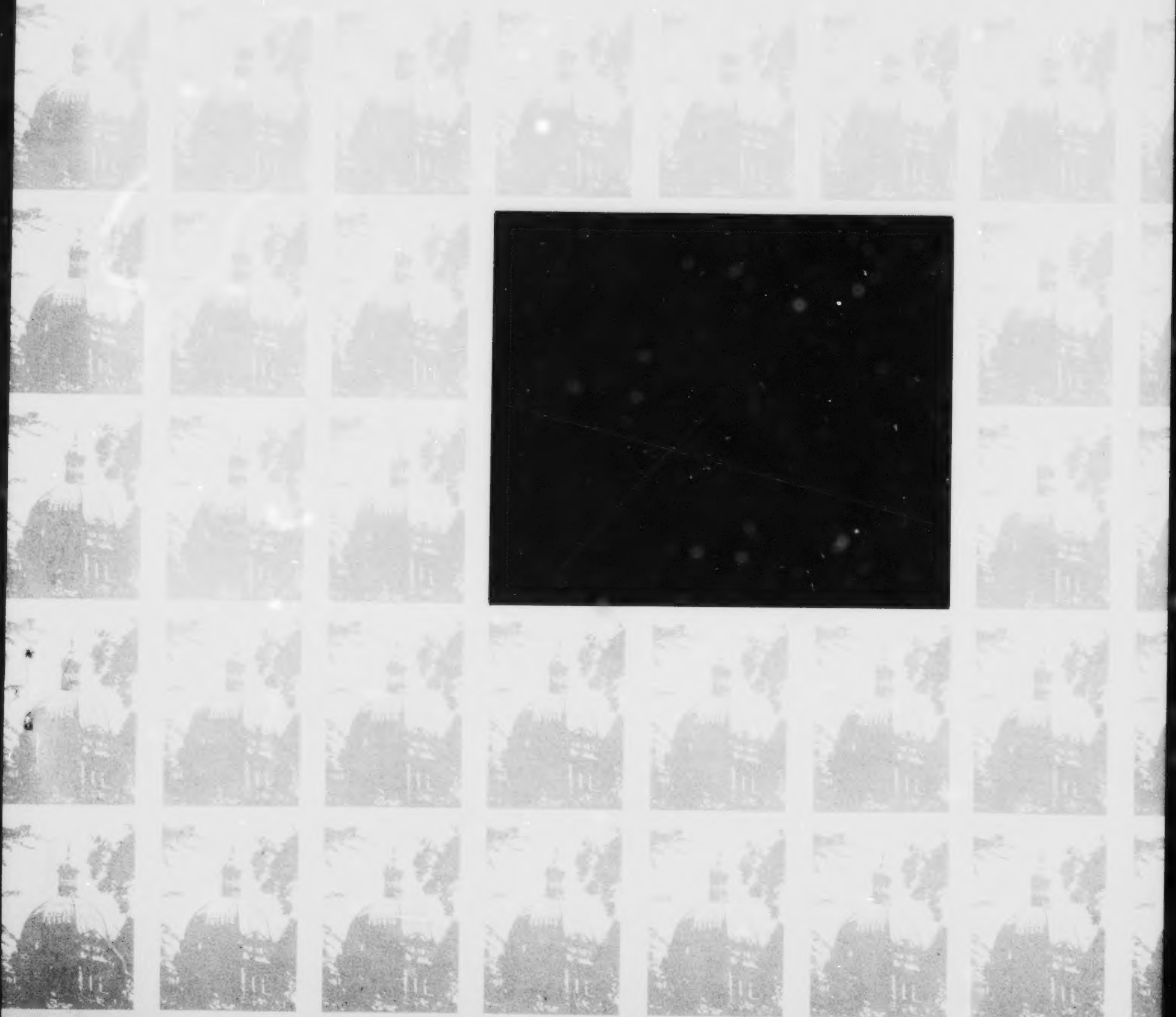
Province of British Columbia
Ministry of Finance and Corporate Relations



DISCUSSION PAPER

FINANCIAL INSTITUTIONS ACT
and
CREDIT UNION INCORPORATION ACT
REGULATIONS

February 15, 1990

90-03078/

FINANCIAL INSTITUTIONS ACT AND CREDIT UNION INCORPORATION ACT REGULATIONS

TABLE OF CONTENTS

	CHAPTER
INTRODUCTION AND PURPOSE	1
INCORPORATION AND SIGNIFICANT CHANGES	2
A. Limitation on Acquisitions	
BUSINESS	3
A. Continuation of Business Without Business Authorization	
B. Restrictions Respecting Shared Premises and Confidentiality	
CAPITAL REQUIREMENTS	4
LIQUIDITY REQUIREMENT	5
RELATED PARTY TRANSACTIONS	6
MARKETING OF FINANCIAL PRODUCTS	7
INVESTMENTS	8
A. Investment and Lending	
B. Investment and Loan Committee	
AUDIT AND FINANCIAL STATEMENTS	9
CREDIT UNIONS ONLY	10
A. Location of Credit Union Offices	
B. Credit Union Deposit Guarantee	
C. Fund Protection Symbol	
D. Issue of Security Instruments by Credit Unions	
E. Credit Union Business Outside of Province	

CHAPTER

INSURANCE ONLY 11

A. Insurance Council of British Columbia
B. Insurance Agents, Salespersons and Adjusters Licensing
C. Restricted Insurance Agents Licence and Exemption
D. Conditions Respecting Licences Issued to Insurance Agents and Adjusters
E. Replacement of Life Insurance Contracts
F. Reinsurance
G. Valuation of Insurance Reserves
H. Compensation Plans
I. Designation of Mutual Companies

EXTRAPROVINCIAL CORPORATIONS 12

A. Province Designation

MISCELLANEOUS 13

A. Inactive Deposits

FORMS 14

REGULATORY PROVISIONS NOT IMPLEMENTED 15

CHAPTER 1

INTRODUCTION

The purpose of this discussion paper is to provide draft regulations to the Financial Institutions Act (FIA) and the Credit Union Incorporation Act (CUIA) for public discussion prior to their finalization. The target date for proclamation of the legislation and for the regulations to come into effect is July 1, 1990. It is hoped that the regulations will be finalized and approved by the Lieutenant Governor in Council prior to that date to provide users with an opportunity to prepare for the legislation.

In addition to the regulations, the government intends to introduce a number of minor amendments to the legislation in the Spring, 1990 session of the Legislature. The purpose of the amendments is to correct some errors and inconsistencies which have been identified, to clarify the intent of some provisions and to provide improved authority for regulations. The latter changes are referred to as appropriate throughout this paper.

Comments on the policy underlying the draft regulations as well as the practical application of the regulations are welcome. The regulations are in draft form only and have not been approved by Legislative Counsel. They are included to indicate the type of regulations, but there will be further changes to the drafting of most regulations prior to their passage.

Responses will be accepted at any time but, to ensure the greatest chance of favorable consideration, it is suggested that responses be submitted by April 6, 1990.

Responses should be addressed to:

Mr. Gerry Armstrong
Assistant Deputy Minister
Corporate Relations Division
Ministry of Finance and Corporate Relations
Room 109, 617 Government Street
Victoria, British Columbia
V8V 1X4

STRUCTURE

This paper is organized into a number of sections, roughly following the structure of the legislation. The regulations have been divided into a number of different regulations dealing with different issues or areas for the purposes of this paper.

A regulation is a legal requirement which is set by an authority in government other than the legislature, and which is provided for in statute. In the FIA and the CUIA, all regulations are made by the Lieutenant Governor in Council. In general, the regulations set out details of the legislative framework set out in the statutes. Both have the force of law.

STRUCTURE (Continued)

In order to explain the purpose and intent of the draft regulations, each section of this paper includes a description of the background to the regulations and the purpose of the regulations covered in the section.

There are provisions in the legislation for a number of regulations which will not be used at this time. These are primarily provisions that allow lists of requirements, prohibitions or exemptions to be added to by regulation. The purpose of these provisions is to provide the flexibility necessary for the government to deal with changes in practice or unanticipated developments quickly within the general context of the legislation. A list of the regulation-making powers which will not likely be used at this time is provided at the end of the paper.

One policy principle of the legislation is that users should have as much certainty as possible about the requirements of the legislation. For this reason, all regular reporting requirements and applications will be in forms prescribed in the regulations. A copy of these draft forms has been included in this paper for comment.

In addition, though regulations to establish model rules for credit unions (section 7(3) of the CUIA), annual return reporting forms for financial institutions and extraprovincial corporations (sections 127 and 162 of the FIA) and fees will be drafted, these are not included in this paper. Model rules for credit unions are being developed in consultation with the credit union system and a standard annual return reporting form for financial institutions is in the process of being developed by provincial regulators. The process for setting fees is related to the provincial budget and final decisions have yet to be made. Once draft regulations have been completed in these areas, they will be made available for comment.

POLICY PRINCIPLES

The regulations are intended to be consistent with the policy principles underlying the FIA and the CUIA. The objective of the legislation is to provide a balanced regulatory regime which is consistent with an efficient British Columbia financial sector. This requires both effective public protection to provide needed confidence and avoidance of unnecessarily restrictive or paternalistic regulatory measures.

The regulations, for the most part, simply expand on or clarify the legislation. To the greatest extent possible, the FIA and the CUIA set the policy, and the regulations fill in the detail where necessary.

CHAPTER 2

A. LIMITATION ON ACQUISITIONS

I. **NAME:** Limitation on Acquisitions Regulation

II. **PURPOSE:**

This regulation gives effect to section 28 of the FIA, which is an anti-avoidance provision required to enforce the ownership restrictions contained in the Act. It requires ministerial approval for purchases of assets and, in the case of insurance companies, large reinsurance deals not done in the ordinary course of business. Section 28 complements the requirement that trust and insurance companies obtain consent from the commission and the minister prior to amalgamating with another company and other restrictions on "significant changes".

Authority for this regulation is provided by sections 28(2) and (3) of the FIA.

III. **DISCUSSION:**

Section 28(2) directly prohibits "reverse take-overs" of trust and insurance companies by preventing them from acquiring control of other companies, in excess of a prescribed percentage of their assets, without consent of the minister. Section 28(3) prohibits insurance companies from entering into reinsurance agreements which have the effect of transferring more than a prescribed percentage of their business property to another company without the consent of the minister. These restrictions ensure that individuals acquiring control of financial institutions by either type of transaction can be subject to the same screening and approval process as individuals seeking to incorporate new financial institutions.

The regulation sets both prescribed percentages at 50 per cent.

LIMITATION ON ACQUISITIONS REGULATION

1. The prescribed percentage for the purpose of section 28 (2) and (3) is 50%.

III. DISCUSSION: (Continued)

The FIA deals with these exemptions in the following ways:

Banks are not given a general exemption under the FIA. Section 81 does provide a specific exemption from the prohibition against deposit business but, in all other respects, banks are subject to provisions of general application found in the FIA.

Section 157 of the FIA provides a general exemption for federal loan corporations that are wholly-owned subsidiaries of banks. Provincially incorporated loan corporations are not exempt, however, and will be required to hold a business authorization in order to carry on business in British Columbia. This is the same situation for societies or other charitable organizations exempt under the Trust Company Act and for any person exempt by regulation from the Trust Company Act.

The exemption for extraprovincial corporations whose business in the province is limited to acting as an executor, trustee or administrator in respect of a specific will or estate will be continued in a somewhat modified form. Such corporations will not be granted a general exemption from the Act but, rather, pursuant to section 71 of the FIA, will not be required to have a business authorization for the purpose of carrying on this limited activity.

The Insurance Act also contained a provision that permitted "any person or class of person" to be exempt by regulation from any provision of the Act. Over the years, exemptions were made in respect of certain persons carrying on a type of insurance business in very special and limited circumstances (i.e., corporations offering product warranty insurance for their own goods or services and persons selling insurance only in respect of forgery insurance sold incidental to the sale, maintenance or repair of cheque writing machines). Under the FIA, these persons will continue to have a limited exemption pursuant to regulations (see Chapter 11, Part C "Restricted Insurance Agents Licence and Exemption"). Any other person exempt pursuant to section 357(1)(g) will be required to comply with the FIA and obtain a business authorization if they are carrying on a prohibited business.

Subsection 60(6) of the FIA provides that persons exempt under the former Acts who are carrying on a business that would be prohibited under the FIA without the appropriate authorization may continue to carry on that business without a business authorization until a prescribed date.

CHAPTER 3

A. CONTINUATION OF BUSINESS WITHOUT BUSINESS AUTHORIZATION

I. **NAME:** Continuation of Business without Business Authorization Regulation

II. PURPOSE:

This regulation is essentially a transitional provision. It permits a person who was exempt from the registration and licensing requirements of the Trust Company Act and Insurance Act and who is carrying on a type of business that would be prohibited under the FIA without a business authorization to continue to carry on that business for a certain period of time.

Authority for this regulation is provided by section 60(6) of the FIA.

III. DISCUSSION:

Section 60 of the FIA sets out the procedures and rules for the automatic issuance of the appropriate form of business authorization to existing trust companies that were registered under the former Trust Company Act, insurance companies that were licensed under the former Insurance Act and credit unions incorporated under the former Credit Union Act.

However, the former Trust Company Act contained provisions to exempt certain persons from the requirement to be registered. Specifically, section 2 of the Trust Company Act provided an exemption from the Act for

- banks;
- loan companies incorporated by an Act of Canada or of any province of Canada that were approved by the Lieutenant Governor in Council;
- societies or other corporations established for religious, charitable, benevolent or fraternal purposes that were approved by the Lieutenant Governor in Council;
- extraprovincial companies appointed outside the province as an executor or trustee of a will or as administrator of an estate that were approved by the Lieutenant Governor in Council; and
- any person exempted by regulation.

III. DISCUSSION: (Continued)

Pursuant to this regulation, all persons carrying on a prohibited business who have not been specifically covered by other provisions of the FIA will be exempt from the requirement to have a business authorization until July 1, 1992 (two years following the expected proclamation date of the FIA).

CONTINUATION OF BUSINESS WITHOUT BUSINESS AUTHORIZATION REGULATION

1. A person described in section 60 (6) of the Act is permitted to carry on business without a business authorization until July 1, 1992.

B. RESTRICTIONS RESPECTING SHARED PREMISES AND CONFIDENTIALITY

I. **NAME:** Restrictions Respecting Shared Premises and Confidentiality Regulation

II. PURPOSE:

This regulation imposes on new and existing business authorizations and insurance agents' licences the condition that financial institutions and insurance agencies be located on separate premises except for certain grandfathered credit unions.

Authority for this regulation is found in section 288(3)(g) of the FIA (related provisions - sections 62 and 174).

III. BACKGROUND:

On September 29, 1988 (revised November 4, 1988), the Superintendent of Financial Institutions issued Policy Statement 88-2, Insurance Agents Associated with Savings Institutions (Policy 88-2), which prohibited savings institutions in British Columbia (i.e., banks, credit unions and trust companies) from sharing office premises and insurance policy information with insurance agencies. Licensed insurance agencies which occupied the same premises as a credit union on May 27, 1988, were permitted to continue to do so subject to the condition that insurance business be limited to a separate and distinct area of the premises.

The policy also includes restrictions on the confidentiality of information between financial institutions and insurance agents.

Policy 88-2 was enforced through regulations made under the Credit Union Act and the Trust Company Act, and through insurance agents licensing provisions of the Insurance Act.

IV. DISCUSSION:

The policy of requiring savings institutions and insurance agencies to occupy separate premises will be maintained under the new financial institutions legislation by establishing a regulation under section 288(3)(g) which will apply to all business authorizations and insurance agent licenses. Sections 62 and 174 of the FIA ensure that where a condition is prescribed under section 288(3)(g) that condition will apply to and be considered part of every existing and new business authorization in the class named in the regulation and will apply to and be considered part of every existing and new insurance agent's licence.

IV. DISCUSSION: (Continued)

The grandfathering provisions have been maintained in the regulation consistent with Policy 88-2. As well, rather than establishing policy statements to supply further details, consideration is being given to adding additional provisions to the regulation to define the meaning of "separate premises" and "separate areas" and to clarify that grandfathered credit unions may relocate offices without being adversely affected.

Consistent with Policy 88-2 in determining if an insurance agent occupies "separate and distinct premises", the Superintendent will consider the following factors:

1. It is evident to the public that the insurance agent is separate and distinct from the savings institution.
2. The public must not be able to pass from the business offices of the savings institution to the business offices of the insurance agent without first entering an area outside the premises which is frequented by the public at large.
3. The insurance agent has, in prominent display, signs identifying it as separate and distinct from the savings institution.

Factors to be considered in determining whether an insurance agent occupies "separate and distinct areas" will be:

1. It is evident to the public that the insurance agent is separate and distinct from the credit union.
2. The insurance agent is accessible to the public without the public having to pass through a non-public or working area of the credit union to reach the insurance agent.
3. The insurance agent has, in prominent display, signs that identify it as separate and distinct from the credit union.

Also consistent with Policy 88-2, the regulation may contain specific provisions to clarify that "grandfathered" credit unions and insurance agencies may continue to occupy shared premises following a forced move.

The regulation does not deal with confidentiality of information for financial institutions as that issue has been addressed by section 95 of the FIA.

RESTRICTIONS RESPECTING SHARED PREMISES AND CONFIDENTIALITY REGULATION

Interpretation

1. Unless the context otherwise requires, words and expressions defined in Division 2 of Part 6 of the Act have the same meaning for the purposes of this regulation as they have in that Division.

Conditions respecting business premises of trust companies and credit unions

2. It is a condition of every business authorization issued to a trust company or a credit union that the business offices of the trust company or credit union be located in premises that are separate and distinct from the business offices of an insurance agent licensee.

Conditions respecting business premises of insurance agents

3. (1) It is a condition of every licence issued to an insurance agent other than an insurance agent described in subsection (2) that the business offices of the insurance agent be in premises that are separate and distinct from the business offices of a savings institution.

(2) It is a condition of every licence issued to an insurance agent who immediately before the date this regulation comes into force was permitted to have a business office in the same premises as the business offices of a credit union, that the business offices of the insurance agent be in an area of the premises which is separate and distinct from the business offices of the credit union.

Conditions respecting business premises of insurance adjusters

4. It is a condition of every licence issued to an insurance adjuster that the business offices of the insurance adjuster be in premises that are separate and distinct from residential premises and any other business offices.

Conditions respecting confidentiality

5. (1) In this section

"customer" means a person who receives a service or a product from an insurance agent;

"transaction" means a transaction under which an insurance agent provides a service or a product to any person.

(2) It is a condition of every licence issued to an insurance agent that

(a) where, for the purpose of a transaction, the insurance agent receives information pertaining to a customer's general insurance coverage or proposed general insurance coverage, then, even if the insurance agent is authorized by the customer to communicate the information, the insurance agent shall not

(i) communicate any of the information to another person except as necessary in the performance of the insurance agent's duty to the customer arising out of that transaction or a similar subsequent transaction between the insurance agent and the same customer, or

(ii) use the information for a purpose other than of that transaction or of a similar subsequent transaction between the insurance agent and the same customer unless the communication or the use of the information is authorized or required by an enactment or a court proceeding,

(b) where, for the purpose of a transaction, the insurance agent receives information other than information pertaining to a customer's general insurance coverage or proposed general insurance coverage, then the insurance agent shall not

(i) communicate any of the information to another person except as necessary in the performance of the insurance agent's duty to the customer arising out of that transaction or a similar subsequent transaction between the insurance agent and the same customer, or

(ii) use the information for a purpose other than of that transaction or of a similar subsequent transaction between the insurance agent and the same customer

unless the communication or the use of the information is

(iii) authorized or required by an enactment or a court proceeding, or

(iv) authorized in writing by the customer.

No savings from Insurance Act

6. This regulation shall not be construed as relieving a financial institution or an insurance agent from any obligation under the *Insurance Act* or its regulation.

CHAPTER 4

CAPITAL REQUIREMENTS

I. **NAME:** Capital Requirements Regulation

II. **PURPOSE:**

This regulation establishes a capital adequacy requirement framework for British Columbia financial institutions.

The authority for this regulation is provided by sections 68 and 288(3)(f) of the FIA.

III. **BACKGROUND:**

Financial institutions are key agents in a national or regional economy. The business of financial institutions is to invest the savings of others in exchange for a commitment to repay those savings, subject to certain conditions, on a future date. This intermediary role of financial institutions is vital to ensuring savings generated within the economy are available to meet the investment needs of the economy.

In recognition of the unique importance of financial institutions to the healthy functioning of a region's economy, governments generally regulate financial institutions more closely than other businesses. In addition to imposing hardship on individual depositors or policyholders, the failure of a single financial institution can erode confidence in other financial institutions and in the economy. The ultimate impact of the failure of a financial institution can be much greater than its impact on those directly affected by the failure.

Financial institutions can be regulated on a number of levels. The three primary ways to regulate financial institutions are:

(a) to restrict ownership and control;

(b) to impose direct restrictions on business and investment activities; and

(c) to impose capital requirements which must be met before a financial institution can commence or continue operations.

Under the FIA, all three of these primary regulatory tools are utilized. The pivotal regulatory mechanism, however, is the regulation of capital.

III. BACKGROUND: (Continued)

Framework for Regulation of Capital

The FIA regulates the capital of financial institutions in two ways. Under section 68 of the Act, a fixed minimum capital requirement is imposed on financial institutions other than credit unions. The fixed minimum capital requirements are specified in the Act by type of institution, but the definition of capital is referred to in the regulations. Section 68 also provides for an ongoing size-related capital requirement to apply to all financial institutions, including credit unions, which is also to be imposed by regulation.

No fixed minimum capital requirement has been set for credit unions in recognition of the fact that the founding of very small credit unions is consistent with the cooperative ownership structure of credit unions. The size-related capital requirement is applied to credit unions to protect the public and promote the stability of the credit union system. The policy rationale is that credit unions, like privately-owned financial institutions, should not grow beyond their capacity to generate a capital base to support that growth, either through accumulating surpluses or attracting equity capital.

The minimum capital requirements set by section 68 are:

Type of Institution	**Required Minimum Base Capital Imposed by Section 68**
Trust company authorized to carry on deposit business	$ 5 million
Insurance company authorized to carry on one or more classes of general insurance	$ 3 million
Insurance company authorized to carry on life insurance business	$ 5 million
Insurance company authorized to carry on both life insurance business and one or more classes of general insurance	$10 million
Trust company not authorized to carry on deposit business	No Minimum
Credit union	No Minimum

III. BACKGROUND: (Continued)

Framework for Regulation of Capital (Continued)

The size-related capital adequacy regulation for deposit-taking institutions presented in this paper has been modelled on the risk-weighted capital adequacy rules recently imposed on Canadian chartered banks. These rules, known as the Bank for International Settlements (BIS) rules, were jointly developed by the Group of Ten Countries for application to international banks. Risk-weighted capital adequacy rules have been in effect in some European countries for some time.

Under a risk-weighted capital adequacy test, the amount of capital a financial institution must hold is a function of the riskiness of the asset portfolio held by the financial institution. Risk-weighting factors are assigned to each category of asset which may be held by financial institutions. The base against which capital must be held is the total value of the financial institution's assets, aggregated after their value has been adjusted for risk.

As an example of how this works, a financial institution with $200 of actual assets, consisting of two $100 assets with assigned risk-weights of 50 per cent and 100 per cent, would have to hold capital against a risk-weighted asset base of $150 (0.5 x $100 plus 1.0 x $100 = $150). If the capital requirement was set at 10 per cent of the risk-weighted value of assets, the financial institution would be required to maintain capital of $15 (10 per cent of $150). In effect, twice as much capital would have to be held for the asset with the 100 per cent risk-weighting factor as would have to be held for the asset with the 50 per cent risk-weighting factor.

The purpose of this type of capital test is to impose a capital requirement which provides an adequate cushion to absorb the riskiness of the investment and lending strategy actually being pursued by a financial institution. An asset portfolio consisting entirely of low weighted assets would indicate the financial institution is pursuing a conservative business strategy which can be supported by a relatively small capital base. An asset portfolio with a large proportion of assets assigned a high risk-weight would indicate the financial institution is pursuing a relatively high-risk business strategy and should be supported by a larger capital base.

IV. DISCUSSION:

The key elements required for a risk-weighted capital adequacy standard are:

- a definition of capital base;
- a weighting schedule for all categories of assets which may be held by financial institutions; and
- a specified minimum ratio of capital base to total value of risk-weighted assets.

Each of these elements is discussed separately.

1. DEFINITION OF CAPITAL BASE

The capital base of a financial institution is the cushion which protects depositors and policyholders (and deposit insurers and other insuring agencies) when the financial institution experiences an operating loss. Initial losses can be absorbed by the capital base, and a continuing erosion of capital below required levels alerts regulatory authorities of the need for regulatory action to be taken. As well as providing a cushion against losses, a financial institution's capital base provides resources for the financial institution to develop its internal infrastructure and respond to new growth opportunities.

In order to serve this function, capital qualifying for inclusion in the regulated capital base of a financial institution would ideally have the following characteristics:

- it would be permanent;
- it would be free of fixed charges against earnings (e.g., interest payments); and
- it would be subordinate in its priority on liquidation to the rights of depositors, policyholders and other creditors of the financial institution.

Some forms of capital unambiguously meet all three of these requirements (primary capital); other forms fall short in one or more respects (secondary capital). The regulation must define items which may be included as primary and secondary capital; specify characteristics of permitted secondary capital; and state any restrictions which are to apply to the inclusion of secondary capital in the regulated capital base of a financial institution.

IV. DISCUSSION: (Continued)

1. DEFINITION OF CAPITAL BASE (Continued)

Two other key technical issues must be addressed in defining financial institution capital. They are:

- how should investments in subsidiaries be treated; and
- what items should be required deductions from capital to ensure calculated capital reflects the true capital capacity of a financial institution.

Models for Proposed Definition of Capital

The proposed definition of base capital has been developed with reference to how capital base is defined for Canadian chartered banks and for Ontario and Quebec trust companies. These models are discussed below.

Canadian Chartered Banks

Under the BIS rules which apply to the Canadian chartered banks, separate capital requirements are imposed for primary and secondary capital, referred to as core (Tier 1) and supplementary (Tier 2) capital. A set percentage of each type of capital must be held, with surplus core capital eligible for inclusion as supplementary capital. Total supplementary capital, and certain elements of supplementary capital, are restricted with respect to core capital.

Tier 1 and Tier 2 capital are defined as follows under the BIS rules:

Tier 1 Capital

(i) permanent shareholders' equity

  - issued and fully paid ordinary shares/common stock;
  - perpetual non-cumulative preference shares; and

(ii) disclosed reserves

  - retained earnings;
  - share premiums;
  - general reserves;
  - legal reserves.

IV. DISCUSSION: (Continued)

1. DEFINITION OF CAPITAL BASE (Continued)

Models for Proposed Definition of Capital (Continued)

Tier 2 Capital (Not to Exceed 100 per cent of Tier 1 Capital)

(i) undisclosed reserves accepted by regulator (reserves not identified on balance sheet but not encumbered by any provision or other known liability);

(ii) revaluation reserves (arising from difference between book and actual values of certain assets such as premises and equity securities, may be subject to a discount of 55 per cent);

(iii) general provisions/loan loss reserves (held against future (presently unidentified) losses, not ascribed to impairment of particular assets or known liabilities);

(iv) hybrid (debt/equity) capital instruments, such as non-redeemable cumulative preferred shares; and,

(v) subordinated term debt - not to exceed 50 per cent of Tier 1 capital (conventional unsecured debt instruments with a minimum original fixed term to maturity of over five years which are subordinated to the right of other debt and limited life redeemable preferred shares, both discounted during last five years to maturity at a (cumulative) rate of 20 per cent per year).

Deductions

The following are deducted in calculating capital base:

(i) goodwill; and,

(ii) investments in subsidiaries engaged in banking and financial activities which have not been consolidated.

Ontario and Quebec Trust Companies

Under Ontario and Quebec legislation regulating trust companies, minimum capital requirements are used to limit the financial obligations of regulated institutions. Total indebtedness, including deposits and debt, is restricted to a multiple of base capital. This approach to regulating capital differs

IV. DISCUSSION: (Continued)

1. DEFINITION OF CAPITAL BASE (Continued)

Models for Proposed Definition of Capital (Continued)

fundamentally from the risk-weighted capital adequacy approach in effect for the chartered banks. Both approaches, however, require a definition of base capital.

In defining base capital, neither Quebec nor Ontario utilize the two tier capital concept. The amount of secondary capital that can be included as part of base capital is, however, restricted by both provinces.

In the case of Quebec, the amount of secondary capital (defined as redeemable or callable preferred shares, bonds, other debt securities and subordinated shareholder loans) that may be included in base capital is restricted to 50 per cent of primary capital (common share capital and non-redeemable, non-callable preferred shares, contributed surplus and retained earnings).

Total base capital for Quebec trust companies includes the above items plus net deferred income taxes payable, less deductions in respect of assets which could not be recovered in the event of a liquidation (goodwill, deferred charges, and prepaid expenses) and an adjustment for investments in subsidiaries.

In the case of Ontario, no restriction is imposed on the inclusion of preferred shares (including redeemable or callable preferred shares) in base capital. Subordinated notes, however, cannot be issued to exceed 50 per cent of total base capital; subordinated notes issued up to that limit may be included as part of base capital.

Total base capital for Ontario trust companies is the total of: fully paid-in common and preferred shares, contributed surplus, subordinated notes, retained earnings and deferred income taxes payable, less deductions for non-recoverable assets and investments in subsidiaries.

The key differences between the Ontario and Quebec approaches to restricting secondary capital for the capital base calculation are that:

- Quebec restricts callable and redeemable preferred shares, as well as other forms of subordinated debt; Ontario only restricts subordinated notes;

IV. DISCUSSION: (Continued)

1. DEFINITION OF CAPITAL BASE (Continued)

Models for Proposed Definition of Capital (Continued)

- Quebec restricts secondary capital to 50 per cent of primary capital; Ontario restricts secondary capital (subordinated notes) to 50 per cent of total calculated capital;
- required deductions for non-recoverable assets and required adjustments for investments in subsidiaries are similar but not identical; and,
- Quebec imposes its quantitative restriction by restricting the amount of secondary capital that can be included in the capital base calculation; Ontario imposes a quantitative restriction by restricting the amount of subordinated debt that can be issued.

Proposed Regulation

The draft regulation combines features from the regimes discussed above. The treatment of secondary capital, investments in subsidiaries and required deductions are discussed separately.

Secondary Capital

In the proposed draft regulation, the mechanism of two tiers of capital, subject to separate regulatory provisions, is rejected in favor of a single definition of base capital. A limitation is proposed on the amount of secondary capital which can be included as part of base capital. Apart from this restriction on the amount of secondary capital which a financial institution can include in its regulated capital base, all forms of capital are implicitly considered to be of equal strength.

Permitted secondary capital is broadly defined to include cumulative and redeemable preferred shares and conventional subordinated debt. It is proposed that secondary capital not exceed 33 per cent of total calculated capital. This 33 per cent restriction is more limiting than the 50 per cent Ontario trust company restriction on secondary capital; it is consistent with the effective Quebec restriction of secondary capital to 50 per cent of primary capital, but is applied after deductions instead of before.

1. DEFINITION OF CAPITAL BASE (Continued)

Proposed Regulation (Continued)

Discount of Maintaining Capital

Another restriction placed upon capital in the draft regulation is the requirement to discount it during the last five years of its term to maturity. This requirement exists in the BIS rules and under the British Columbia credit union statutory reserve account regulation, but is not imposed on Ontario and Quebec trust companies. The purpose of this provision is to ensure that capital is not suddenly reduced by a significant amount due to a maturity when the financial institution is unable to replace the capital. By discounting the capital over five years, if there is a problem it will be identified earlier.

Investments in Other Corporations

The FIA permits financial institutions to have an equity interest of up to 10 per cent of any corporation (section 136). In addition, section 139 of the Act permits a financial institution to hold or control more than 10 per cent of the voting shares of a corporation carrying on specified businesses, including financial institutions which are subject to capital adequacy regulation.

It is recognized that there is no technically perfect method for allocating capital and assets between corporations within a corporate group. The approach taken in the draft regulation is, therefore, arbitrary but is intended to be conceptually straightforward and to minimize the risk of double counting of capital while, at the same time, allowing financial institutions some credit for capital held in subsidiaries.

The proposed approach is that capital in each financial institution is to be evaluated on a stand-alone basis with respect to investments in other financial institutions which are subject to a capital requirement. This implies that any investment by a financial institution in a corporation that is a regulated financial institution is to be deducted from capital. Investments of between 10 and 100 per cent in other corporations are to be accounted for using equity accounting and 100 per cent investments in subsidiaries which are not financial institutions are to be consolidated for the purpose of the capital calculation.

IV. DISCUSSION: (Continued)

1. DEFINITION OF CAPITAL BASE (Continued)

Proposed Regulation (Continued)

In more detail, the approach adopted in the regulation is as follows:

1. Investments which create an ownership share of less than 10 per cent in financial institutions or other corporations are to be ignored for the calculation of capital base, and are to be given an asset risk-weight of 150 per cent. Equity investments are to be evaluated at the lower of acquisition cost or net realizable value.
2. Investments, other than investments in central credit unions or corporate credit societies, which create an ownership share of 10 per cent or greater in financial institutions that are (or would be if they were incorporated in British Columbia) subject to a capital adequacy requirement under the FIA are to be deducted from capital to prevent double counting of capital. The investment is to be valued as the lower of cost or net realizable value of the capital investment, plus the recorded value of the financial institution's post-acquisition share of the retained earnings of the investee. The asset risk-weighting assigned to deducted investments will be zero. The capital adequacy of all financial institutions, including ones which are subsidiaries of other financial institutions, is to be assessed separately.
3. Where a financial institution takes debt of another financial institution, other than a central credit union or corporate credit society, in which it has an interest of 10 per cent or greater, and that debt would qualify for inclusion in the regulated capital base of the corporation issuing it under the FIA capital adequacy regulation, the full amount of the issued debt is to be deducted from the base capital of the financial institution taking the debt to prevent double counting of capital. The asset risk-weighting of the debt will be zero.
4. Investments, other than in another financial institution, which create an ownership share of 10 per cent or greater, but less than 100 per cent are to be recorded, for the purpose of the capital adequacy calculation, using equity accounting. The

IV. DISCUSSION: (Continued)

1. DEFINITION OF CAPITAL BASE (Continued)

Proposed Regulation (Continued)

financial institution's post-acquisition share of the retained earnings or deficit of the investee is to be included in capital (i.e., it is not required to be deducted from capital). The asset value of the investment will be the lower of cost or net realizable value of the capital investment plus the financial institution's post-acquisition share of the retained earnings or deficit of the investee, and will receive an asset risk-weighting of 150 per cent.

5. Investments which create an ownership share of 100 per cent, other than investments in other financial institutions, are to be fully consolidated using generally accepted accounting principles, and the capital adequacy of the financial institution is to be assessed based on this consolidation.

Deductions

Under a risk-weighted capital adequacy test, requiring an asset to be deducted from capital is the equivalent of giving that asset a very high risk-weighting factor. For example, if the rule is that capital must be at least 6 per cent of risk-weighted assets, deducted assets would carry an effective weighting factor of 1,670 per cent.

The only deduction from capital in the draft regulation is for investments in other financial corporations. Unlike under the BIS rules, the draft regulation does not require goodwill to be fully deducted. However, the regulation does require goodwill to be deducted from capital (amortized) within three years of its acquisition.

As a phase-in measure, financial institutions carrying goodwill on their books at the time the FIA comes into force will be allowed to deduct that existing goodwill over three years, as if it was acquired at the time the Act came into force. Goodwill deducted from capital will receive an asset weighting of zero; non-deducted goodwill will be given an asset weighting of 150 per cent.

Potentially, non-recoverable assets other than goodwill - deferred charges and prepaid expenses - are not deducted but will be given an asset weighting factor of 150 per cent under the capital adequacy regulation.

IV. DISCUSSION: (Continued)

2. RISK-WEIGHTING OF ASSETS

On- and Off-Balance Sheet Asset Weights

This section of the paper deals with the asset side of financial institutions' balance sheets - specifically with how assets are to be evaluated for the purpose of the size-related capital adequacy test. As noted earlier, the approach taken in the draft regulation is to assign a risk-weighting to each category of asset which may be held by a financial institution. The aggregate value of a financial institution's risk-weighted assets constitutes the base against which the percentage capital requirement is to be applied.

Assets held by a financial institution may be "on-balance sheet" assets or "off-balance sheet" assets. On-balance sheets assets are financial and non-financial assets recorded on financial statements. The risk-weighting factors assigned to on-balance sheet assets are the key determinants of a financial institution's capital requirement. Off-balance sheet assets are "contingent assets" such as letters of credit, guarantees and financial futures, which are not normally recorded on financial statements. Off-balance sheet assets are difficult to value and would not normally be expected to constitute a significant proportion of the total risk-weighted asset portfolio of a provincially regulated financial institution.

In terms of the actual weighting factors assigned to asset categories, the policy approach taken in the proposed draft regulation has been to adopt BIS weighting factors in respect of most on-balance sheet categories. The primary exceptions to the use of the BIS have been included to reflect the fact that for regional institutions, the riskiness of some types of businesses exceeds others. For example, personal lending is very important to credit unions and generally agreed to be less risky than commercial lending. Thus, personal lending has been given a slightly lower rating. On the other hand, investments in real estate or securities are considered more risky and noted appropriately. The treatment of investments in subsidiaries, goodwill, deferred charges and prepaid expenses in the proposed draft regulation have, however, been developed independently of the BIS rules in order to adequately reflect the provisions governing investments in subsidiaries contained in the FIA.

2. RISK-WEIGHTING OF ASSETS (Continued)

On- and Off-Balance Sheet Asset Weights (Continued)

All loans fully secured by mortgages on land are assigned the same risk weightings, regardless of whether the loan is secured by residential or commercial property. Consideration is being given to treating uninsured and high ratio mortgage loans on commercial property as "commercial loans". The manner and extent to which commercial mortgages may be treated as commercial loans is still under review.

In addition, a number of adjustments are included which impose additional weights or higher weights on certain asset categories if they constitute a greater than specified proportion of the financial institution's total assets. The introduction of grandfathering provisions to reduce the impact of the concentration adjustments on institutions which are currently concentrated in commercial loans is being considered.

Off-balance sheet assets cannot be dealt with in the same way as on-balance sheets assets because these assets do not have balance sheet values. The risk of these contingencies should, however, be accounted for in establishing capital requirements for financial institutions. The proposed approach to dealing with these items is to adopt, by reference, the BIS guidelines imposed on banks. These guidelines are still under review and may be subject to change. This approach has been adopted to provide consistency with federal regulation in this difficult area.

Incorporating Risk Factors Other than Credit Default Risk

The risk-weighting factors assigned to both on- and off-balance sheet asset categories are initially ordered to be a function of the "riskiness" of each asset category in the context of the overall asset portfolio of the financial institution. The major sources of non-management risk for financial institutions are:

- credit default risk;
- interest rate risk;
- geographical concentration risk;
- portfolio concentration risk; and
- foreign exchange risk.

Incorporating Risk Factors Other than Credit Default Risk (Continued)

The BIS framework, and the proposed regulation, are primarily intended to address credit default risk. This is appropriate because credit default risk is the most significant non-management risk factor facing financial institutions, and the most easily quantified risk factor.

Risk factors other than credit default risk are, however, implicitly incorporated in a limited way in the BIS rules and the proposed draft regulation. As an example of how other risk factors are implicitly incorporated, a 100 per cent weight is given under the BIS rules (and in the draft regulation) to fixed assets. Assigning a zero weight to fixed assets would reflect the technical absence of credit default risk. However, a zero weight could encourage financial institutions in a weak capital position to over-invest in fixed assets in order to avoid the requirement to hold more capital, increasing the risk of business failure.

In general, the BIS weighting factors, in addition to reflecting credit default risk, are assigned to minimize the equivalent of "tax-planning" in regard to the timing and structuring of investment and lending decisions in order to improve short-term capital position. A similar approach is taken in the proposed draft regulation.

As an initial step toward incorporating interest rate risk into the capital adequacy requirements imposed on financial institutions, the proposed draft regulation also includes a requirement that financial institutions submit an interest rate risk assessment as part of the capital adequacy reporting requirement. This assessment is to compare financial assets and financial liabilities with respect to their interest rate profiles.

It is intended that this report will provide regulators with a monitoring tool to assess the interest rate exposure of financial institutions. As experience is gained by financial institutions and regulators with the monitoring of interest rate risk, consideration will be given to incorporating an explicit interest rate risk factor into the capital adequacy formula.

IV. DISCUSSION: (Continued)

3. CAPITAL ADEQUACY RATIOS

The proposed regulation imposes different capital adequacy tests on different types of financial institutions. No test is proposed in the regulation for life insurance companies as it is still under development.

Credit Unions

It is the intention to set two capital adequacy tests for credit unions. Both tests will compare capital to risk-weighted assets.

The purpose of the lower limit will be to set a level of capital below which a credit union may be placed under supervision for lack of capital. Of course, a credit union which achieves this level of capital could still be placed under supervision for any of the other reasons listed in section 274 of the FIA. A credit union which does not meet the lower capital adequacy test may be placed under supervision at the discretion of the commission and the commission may choose not to exercise their authority in every case.

The lower limit will be set at a level initially consistent with the capital requirement currently contained in the regulations to the Credit Union Act and will be phased in a manner consistent with those provisions. It is thus proposed that the required ratio be 4 per cent as of July 1, 1990, 4.5 per cent as of July 1, 1991, 5 per cent as of July 1, 1992, 5.5 per cent as of July 1, 1993 and 6 per cent as of July 1, 1994.

The upper limit will be set consistently with the capital adequacy test applied to banks and with the test applied to trust companies under this regulation. Credit unions which do not meet the upper limit will be subject to a number of limitations. They will be unable to open new branches or invest in subsidiaries without permission of the superintendent. Investment caps of 7.5 per cent of assets will be set on commercial loans and 4 per cent on real estate. These caps will prevent issuing of new loans or making of new investments which exceed the caps but will not require disposal of existing assets (see the investment and lending regulation for the definition of commercial loan).

The required ratio for the higher capital adequacy test will be 5 per cent as of July 1, 1990, 6.5 per cent as of July 1, 1991 and 8 per cent as of July 1, 1992.

IV. DISCUSSION: (Continued)

3. CAPITAL ADEQUACY RATIOS (Continued)

Trust Companies

The required ratio of capital to risk-weighted assets for deposit-taking trust companies will be the same as the higher limit for credit unions: 5 per cent as of July 1, 1990, 6.5 per cent as of July 1, 1992 and 8 per cent as of July 1, 1993. It is believed that the ultimate level of 8 per cent is consistent with a ratio of 5 per cent of capital to unweighted assets for a reasonably prudent trust company.

The objective in setting the capital requirement is to set it at about the same level applied generally across Canada, as those requirements apply to the "average" trust company.

For trust companies which do not take deposits, capital is required to ensure that those who rely on the trust company to administer funds on their behalf have a reasonable chance of realizing on a valid claim for failure to fulfill a fiduciary duty. It is proposed that a capital adequacy test for trust companies engaged only in trust business be set at 0.5 per cent of assets under administration. That would require at least $500,000 for a trust company administering $100 million in trust funds. Advice would be appreciated regarding the appropriateness of this level.

Insurance Companies

For insurers engaged in general insurance business, a capital adequacy test was set when the general insurance compensation plan was instituted. That test is based on a long established industry rule of thumb, that net premium revenue should not exceed three times capital. It is proposed that the rule be maintained in the regulations.

A capital adequacy rule should also be set for life insurance companies. However, due to the complexity of the issue and the current lack of life insurers incorporated in British Columbia, such a rule is still under consideration. It is expected that any rule which is developed will be based on the guideline being proposed by the industry and on federal rules.

CAPITAL REQUIREMENTS REGULATION

Interpretation

1. In this regulation

"Act" means the *Financial Institutions Act*;

"financial institution" and **"trust company"** both include an extraprovincial trust corporation whose primary jurisdiction, as defined in section 155 of the Act, is not Canada or a province designated under section 156 (4) of the Act;

"share" does not include a non-equity share of a credit union.

Application

2. This regulation does not apply to an extraprovincial corporation, except an extraprovincial trust corporation whose primary jurisdiction, as defined in section 155 of the Act, is not Canada or a province designated under section 156 (4) of the Act.

Determination of capital base

3. For the purposes of the Act and this regulation, the capital base of a financial institution is the aggregate amount of the financial institution's capital items of the types specified in section 4 adjusted by

- (a) applying any discounts under section 7 on capital items,
- (b) deducting, to the extent specified in section 6, the total amount of the financial institution's assets of the types specified in that section, and
- (c) taking into account the requirements respecting secondary capital set out in section 5.

Components of capital base

4. For the purpose of the determination of the capital base of a financial institution, the following types of capital items are specified:

- (a) fully paid share capital from shares of a class of shares that do not have any rights or special rights attached to them that give their holders
  - (i) priority over the holders of shares of one or more other classes
    - (A) on a distribution of assets on dissolution or winding up, or
    - (B) on the payment of dividends,
  - (ii) the right to redeem the shares or to call on the financial institution to purchase or otherwise acquire them from the holders, or
  - (iii) the right to convert the shares into or exchange them for shares of any class of shares other than a class of shares issued to raise capital described in this paragraph;

(b) fully paid share capital from shares of a class of shares issued to raise capital other than that described in paragraph (a) if, but only if,
  (i) any rights or special rights as to payment of dividends to the holders of the shares so issued are non-cumulative,
  (ii) any rights or special rights of the kind described in paragraph (a)(ii) that are attached to the shares are restricted so that the financial institution is not required under any circumstances to redeem, purchase or otherwise acquire the shares of that class at the rate of more than 10% of the issued shares during any one year period, and
  (iii) the shares do not have attached to them any rights or special rights that give their holders the right to convert the shares into, or exchange them for, shares of any class of shares other than a class of shares issued to raise capital described in paragraph (a) or in this paragraph.
(c) contributed surplus;
(d) subordinated debt owed to the Credit Union Deposit Insurance Corporation;
(e) secondary capital of the kind and to the extent permitted under section 5;
(f) retained earnings or deficit;
(g) retained earnings or deficit, as they are determined by the equity method of accounting, of any other corporation that
  (i) is one in which the financial institution has a 10% or greater share of ownership or control or both,
  (ii) is not a subsidiary whose financial statements have been consolidated with those of the financial institution, and
  (iii) is either
    (A) a cooperative credit society or an association, as defined in the *Cooperative Credit Associations Act* (Canada) or a central credit union, or
    (B) a corporation that is not a cooperative credit society or association, as defined in the *Cooperative Credit Associations Act* (Canada), is not a central credit union and does not carry on one or more of the following kinds of business:
      (I) banking;
      (II) insurance or business related to insurance;
      (III) trust business, deposit business or both, whether in the Province or elsewhere;
(h) reserves disclosed on the balance sheet of the financial institution that are not being held against
  (i) future claims or potential claims on the financial institution, or
  (ii) future losses or potential losses by the financial institution;
(i) deferred income tax liabilities less deferred income tax assets.

Permitted secondary capital

5. (1) In subsection (3) "indebtedness" of a financial institution includes an equity interest in a financial institution, other than an equity interest represented by shares issued to raise capital described in section 4 (a) or (b).

(2) Secondary capital of a financial institution may be counted in the determination of its capital base only to the extent that the secondary capital comprises 1/3 or less of the capital base, and, to that intent, the amount of secondary capital used in calculations to determine capital base shall be reduced as necessary to achieve that result.

(3) The kind of secondary capital of a financial institution that, subject to subsection (2), shall be included as a capital item under section 4 (e) is capital raised under a security instrument

- (a) that represents indebtedness of the financial institution that has both of the following characteristics:
  - (i) the indebtedness is wholly unsecured against any specific property of the financial institution;
  - (ii) the indebtedness is subordinated, in right of payment in the event of insolvency or winding up of the financial institution, to all of the financial institutions indebtedness of any other type,
- (b) that is not convertible into or exchangeable for a security instrument of a type that is used to raise capital other than of a type specified as a capital item under section 4, or
- (c) under which the financial institution is not required under any circumstances to repay, redeem, purchase or otherwise acquire all or any part of the capital until a fixed due date or maturity date, when the financial institution must redeem, repay, purchase or otherwise acquire all of the capital.

Deductions from capital

6. For the purpose of the determination of the capital base of a financial institution, the following types of assets are specified, to be deducted to the extent specified below:

- (a) goodwill to the extent,
  - (i) in each year of the 3 year period commencing at the time when section 68 of the Act comes into force, of 1/3 of the value of goodwill being carried on the books at that time, and
  - (ii) in each year after the time when section 68 of the Act comes into force, of 1/3 of the value on acquisition of any goodwill acquired after that time,

  so that each amount recorded for goodwill is fully deducted from capital within 3 years after the later of the time when section 68 of the Act comes into force or the time of acquisition of the goodwill;
- (b) an equity investment of 10% or more in any corporation that carries on one or more of
  - (i) the business of banking,

(ii) insurance business other than as an insurance agency, or
(iii) trust business, deposit business or both;

to the extent that the equity investment of 10% or more in that corporation, including the value of that corporation's retained earnings or deficit, assigned to the financial institution under the equity method of accounting, has been included in the financial institution's financial statements;

(c) indebtedness that is owed to the financial institution by any corporation carrying on one or more of the businesses described in paragraph (b) (i), (ii) or (iii) if, in a determination under section 3 of the capital base of the debtor corporation, the indebtedness qualifies for inclusion under section 4 as a capital item of the debtor corporation.

Requirement to discount certain capital items in determining capital base

7. For the purpose of the determination of the capital base of a financial institution,

(a) any of the financial institution's capital items of a type specified in section 4 (a), (b), (d) or (e) that the financial institution is required under any circumstances to repay, redeem, purchase or otherwise acquire at any time before dissolution or winding up of the financial institution, and

(b) the amount of any accrued but unpaid dividend or interest associated with a capital item of a type specified in section 4 (a), (b), (d) or (e)

shall be included in the financial institution's capital base at a value that has been discounted on the following basis:

Years to date of repayment, redemption, purchase or other acquisition	Discount	Proportion to be included in capital base
5 years or more, or no specified date of redemption, purchase or other acquisition	Nil	100%
4 or more but less than 5	20%	80%
3 or more but less than 4	40%	60%
2 or more but less than 3	60%	40%
1 or more but less than 2	80%	20%
less than 1	100%	0%

Capital adequacy – general insurance companies

8. (1) Subject to subsection (2), the amount that under section 68 of the Act constitutes an adequate capital base of an insurance company that is authorized to carry on one or more classes of general insurance business but is not authorized to carry on life insurance business shall be the amount determined by multiplying the total amount of premiums received by the insurance company in the immediately preceding 12 months, not counting premiums paid by the insurance company to obtain reinsurance, by 33 1/3%.

(2) Where the product of a multiplication under subsection (2) in respect of any insurance company described in subsection (1) is less than $3 million, then the amount that constitutes an adequate financial base for that insurance company is $3 million, in accordance with section 68 of the Act.

Capital adequacy – life insurance companies

9. (1) Subject to subsection (2), the amount that under section 68 of the Act constitutes an adequate capital base of an insurance company authorized to carry on only life insurance business shall be the amount determined under subsections (2) to (4).

[(2) to (4) – To be determined.]

(5) Where the amount determined under subsections (2) to (4) in respect of any insurance company described in subsection (1) is less than $5 million, then the amount that constitutes an adequate financial base for that insurance company is $5 million, in accordance with section 68 of the Act.

Capital adequacy – other insurance companies

10. (1) Subject to subsection (2), the amount that under section 68 of the Act constitutes an adequate capital base of an insurance company authorized to carry on both life insurance business and one or more classes of general insurance shall be the aggregate of

(a) the amount determined by multiplying the total amount of general insurance premiums received by the insurance company in the immediately preceding 12 months, not counting the amount of premiums paid by the insurance company to obtain reinsurance for its general insurance business, by 33 1/3%, plus

(b) [the amount etc. **[to be determined]**].

(2) Where the aggregate of the amounts determined under subsection (1) (a) and (b) in respect of any insurance company described in subsection (1) is less than $10 million, then the amount that constitutes an adequate financial base for that insurance company is $10 million, in accordance with section 68 of the Act.

Capital adequacy – non-deposit taking trust companies

11. The amount that under section 68 of the Act constitutes an adequate capital base of a trust company that is not authorized to carry on deposit business shall be the amount determined by multiplying the total value of all assets it holds in trust by 0.5%.

Capital adequacy – deposit taking trust companies

12. (1) For the purposes of this section, the calculated value of the risk weighted assets of a trust company authorized to carry on deposit business shall be determined by reference to sections 15 to 20.

(2) Subject to subsection (3), the amount that under section 68 of the Act constitutes an adequate capital base of a trust company authorized to carry on deposit business shall be the amount determined by multiplying the calculated value from time to time of the trust company's risk weighted assets

- (a) by 5% throughout the period from the coming into force of section 68 of the Act to June 30, 1991,
- (b) by 6 1/2% throughout the period from June 30, 1991 to June 30, 1992, and
- (c) by 8% at all times after June 30, 1992.

(3) Where the product of a multiplication under subsection (2) in respect of any trust company authorized to carry on deposit business is less than $5 million, then the amount that constitutes an adequate financial base for that trust company is $5 million, in accordance with section 68 of the Act.

Capital adequacy – credit unions

13. (1) For the purposes of this section, the calculated value of the risk weighted assets of a credit union shall be determined by reference to sections 15 to 20.

(2) The amount that under section 68 of the Act constitutes an adequate capital base of a credit union shall be the amount determined by multiplying the calculated value from time to time of the credit union's risk weighted assets

- (a) by 4% throughout the period from the coming into force of section 68 of the Act to June 30, 1991,
- (b) by 4.5% throughout the period from June 30, 1991 to June 30, 1992,
- (c) by 5% throughout the period from June 30, 1992 to June 30, 1993,
- (d) by 5.5% throughout the period from June 30, 1993 to June 30, 1994, and
- (e) by 6% at all times after June 30, 1994.

Restrictions on credit unions maintaining only the minimum level of adequate capital

14. Where the amount of a credit union's capital base constitutes an adequate capital base under section 13 but does not,

(a) throughout the period from the coming into force of section 68 of the Act to June 30, 1991, comprise at least 5% of the calculated value of the credit union's risk weighted assets,

(b) throughout the period from June 30, 1991 to June 30, 1992, comprise at least 6 1/2% of the calculated value of the credit union's risk weighted assets, and

(c) at all times after June 30, 1992, comprise at least 8% of the calculated value of the credit union's risk weighted assets,

then, unless it first receives the written approval of the superintendent, the credit union shall not

(d) locate or relocate one or more offices,

(e) directly or indirectly acquire, hold or control more than 10% of the voting shares in any corporation,

(f) make or invest in commercial loans, or in respect of commercial activity give guarantees or indemnities if as a result the aggregate amount outstanding under all such loans, investments, guarantees and indemnities would exceed 7.5% of the total amount of the credit union's assets, or

(g) acquire land in settlement or partial settlement of loans or for investment purposes if as a result the aggregate book value of land held by the credit union would exceed 4% of the total amount of the credit union's assets.

Assets to be risk weighted in determining capital adequacy

15. (1) In this section

"commercial lease" means

(a) a lease made to an individual for a commercial purpose of the individual, or

(b) a lease made to a corporation for any purpose;

"commercial loan" means

(a) a loan made to an individual to finance commercial activity,

(b) a loan made to a corporation for any purpose, or

(c) accounts receivable acquired in the course of factoring,

but does not include

(d) a loan to an individual or a corporation if the loan is fully secured by a mortgage on land, or

(e) a loan that under section 5 (c) must be deducted from the capital base of the lender trust company or credit union

(2) In a determination under section 12 or 13 of the amount that constitutes an adequate capital base of a trust company authorized to carry on deposit

business or of a credit union, its assets shall be risk weighted in accordance with this section and sections 16 to 20.

(3) Subject to sections 16 to 20, for the purposes of sections 12 and 13, the calculated value of the risk weighted assets of a trust company authorized to carry on deposit business or of a credit union shall be the sum of

(a) the total of the amounts determined in respect of on balance sheet items by the multiplication of the value of each category of assets itemized in Column 1 of the following Table of On Balance Sheet Items by the corresponding weighting factor itemized in Column 2 of that table, plus

(b) the total amount of risk weighted exposure in respect of off balance sheet items determined by reference to Schedule 2 "Off Balance Sheet Exposures" of the reporting forms and instructions prepared and published, and amended from time to time, by the Superintendent of Financial Institutions Canada for the use of Canadian banks in compliance with the agreed framework for measuring capital adequacy endorsed on July 11, 1987 by the central bank Governors of the Group of Ten countries which agreed framework is commonly known as the "Bank for International Settlements" capital adequacy requirements [or if regulations are made by Canada, refer to those regulations.]

TABLE OF ON BALANCE SHEET ITEMS

Item	Column 1 Asset Category	Column 2 Weighting factor
1.	Cash	0.0
2.	Securities issued or guaranteed by the Government of Canada or by a province	0.0
3.	Deposits in a savings institution other than a central credit union described in item 6	0.2
4.	Non-equity shares in credit unions	0.2
5.	Deposits with a cooperative credit society or an association, as defined in the *Cooperative Credit Associations Act* (Canada) whose capital if determined under this regulation would exceed 10% of what the calculated value of its risk weighted assets would be if determined under this regulation by reference to this section and sections [16 to 20]	0.0

TABLE OF ON BALANCE SHEET ITEMS

Item	Column 1 Asset Category	Column 2 Weighting factor
6.	Deposits with a central credit union that has a capital base in excess of 10% of the calculated value of its risk weighted assets, as determined by reference to this section and sections 16 to 20	0.0
7.	Commercial paper, bankers' acceptances, bankers' demand notes or any comparable instrument guaranteed by a savings institution	0.2
8.	Loans fully secured by mortgages on land that are approved or insured under the *National Housing Act* (Canada), or insured by the Mortgage Insurance Corporation of Canada, and accrued interest under the loans	0.0
9.	Loans, other than those itemized in items 8 and 10 that are fully secured by mortgages on land	0.5
10.	Loans fully secured by uninsured mortgages on land if the outstanding amount of the loan, together with accrued interest, is in excess of 75% of the fair market value of the property at the date of the mortgage, less any prior or equally ranking encumbrances	1.0
11.	Accrued interest on loans secured by uninsured mortgages on land	1.0
12.	Loans or leases to individuals other than (a) commercial loans or commercial leases, or (b) loans fully secured by mortgages on land, and accrued interest on the loans and leases	1.0
13.	Commercial loans and commercial leases, and accrued interest on the loans and leases	1.2
14.	Loans to a corporation that under section 5 (c) must be deducted from the capital base of the trust company or credit union	0.0
15.	Equity shares in a central credit union and debentures issued by Credit Union Deposit Insurance Corporation of British Columbia	1.0
16.	Fixed business assets, including premises, land, buildings, leasehold improvements, equipment or comparable assets at acquisition cost	1.0

TABLE OF ON BALANCE SHEET ITEMS

Item	Column 1 Asset Category	Column 2 Weighting factor
17.	Equity investment in another corporation, plus share of the retained earnings of the corporation, where the financial institution has a share of ownership or control of greater than 10% but less than 100% and the investment has not been consolidated in the financial statements of the financial institution or deducted from the capital base, calculated by the equity method of accounting	1.5
18.	Equity investment in another corporation which must be deducted from the capital base of the financial institution	0.0
19.	Debt security instruments of a corporation other than those (a) itemized in items 8 to 10 and 13, (b) traded on a public market as defined in section 74 of the *Securities Act*, (c) that are part of an issue of debt security instruments distributed under that issue to 100 or more persons	1.0
20.	Debt security instruments other than those itemized in items 8 to 10, 13 and 19	1.0
21.	Equity investment in another corporation where the financial institution has a share of ownership and control of less than 10%	1.5
22.	Land acquired in settlement or partial settlement of loans or for investment purposes, at book value	1.5
23.	Goodwill not deducted from capital	1.5
24.	Deferred charges	1.5
25.	Prepaid expenses	1.5
26.	All other assets recorded on the books of the financial institution at acquisition cost	1.0

Concentration risk adjustment – commercial loans and leases

16. Where the unweighted aggregate value of commercial loans and commercial leases itemized in item 15 of section 15 and of debt security instruments itemized in item 19 of section 15 exceeds 20% of the aggregate value of the trust company's or credit union's unweighted assets, the weighting factor applied to the proportion of value exceeding 20% shall be 1.5.

Concentration risk adjustment – non-commercial

17. Where the unweighted aggregate value of loans itemized in item 14 of section 15 exceeds 25% of the total value of the trust company's or credit union's unweighted assets, the weighting factor applied to the proportion of value exceeding 25% shall be 1.5.

Concentration risk adjustment – loans to persons and their related parties

18. Where the unweighted aggregate value of

(a) all loans and leases itemized in items 12 and 13 of section 15 which are made to any combination of one person and that person's associates, other than loans secured by mortgages on residential land that is to be occupied by the borrower, plus

(b) the total book value of the trust company's or credit union's loans to and other investments in any corporations associated with that one person or any of that one person's associates

exceeds 1% of the aggregate value of the trust company's or credit union's unweighted assets, the weighting factor applied to the proportion of value exceeding 1% shall be the sum of the weighting factor that would otherwise apply and 1.0.

Concentration risk adjustment – total investment in land

19. Where the unweighted value of all investments in land itemized in item 22 of section 15 excluding the value of loans itemized in items 8 to 10 of section 15 exceeds 5% of the aggregate value of the trust company's or credit union's unweighted assets, the weighting factor applied to the proportion of value exceeding 5% shall be 2.0.

Concentration risk adjustment – single land parcels

20. Where the unweighted value of investment in a single parcel of land held by a trust company or credit union exceeds 1% of the aggregate value of its unweighted assets, the weighting factor applied to the proportion of value exceeding 1% shall be the sum of the weighting factor that would otherwise apply and 1.0.

Reporting of capital

21. (1) Within 90 days after the end of each of its financial year in each year, a trust company or credit union shall file with the superintendent a report made up to the financial year end showing, to the superintendent's satisfaction,

- (a) the ratio of the trust company's or credit union's capital base, as determined under sections 4 to 7, to the calculated value of the financial institution's risk weighted assets, as ascertained by reference to sections 8, 12, 13 and 15
- (b) the values given in calculating that ratio, to the trust company's or credit union's capital items of each type specified in section 4,
- (c) the values and discounted values given, in calculating that ratio, to the trust company's or credit union's assets of each type specified in section 6,
- (d) the value and the risk weighting given, in calculating that ratio, in accordance with sections 15 to 20 to each category of assets, including both on and off balance sheet items.

(2) Within 90 days after the end of its financial year in each year,

- (a) an insurance company authorized to carry on one or more classes of general insurance business,
- (b) an insurance company authorized to carry on life insurance business,
- (c) an insurance company authorized to carry on both or one or more classes of general insurance and life insurance, and
- (d) a trust company not authorized to carry on deposit business

shall file with the superintendent a report made up to the financial year end showing, to the superintendent's satisfaction, the particulars of the calculation, pursuant to section 8, 9, 10 or 11 as applicable, of the amount that constitutes an adequate capital base for that trust company.

(3) Within 90 days after the end of its financial year in each year, a financial institution shall file with the superintendent an interest rate risk assessment report made up to the financial year end showing, to the superintendent's satisfaction, the comparison between

- (a) the profile of the interest rates payable to the financial institution for its financial assets, and
- (b) the profile of the interest rates payable by the financial institution for its financial liabilities.

(4) A financial institution shall file the reports required under this section concurrently with the report required under section 125 of the Act.

CHAPTER 5

LIQUIDITY REQUIREMENT

I. **NAME:** Liquidity Requirement Regulation

II. **PURPOSE:**

This regulation sets a requirement for credit unions and deposit-taking trust companies to hold at least a specified percentage of their assets in liquid form.

Liquidity requirements are imposed on deposit-taking financial institutions to ensure anticipated (and to a certain extent unanticipated) withdrawals from demand deposit accounts and calls on other short-term liabilities can be accommodated without requiring liquidation of long-term assets on unfavorable terms.

The authority for this regulation is contained in sections 67 and 288(3)(e) of the FIA.

III. **BACKGROUND:**

British Columbia trust companies and credit unions are both currently subject to liquidity, or cash reserve, requirements.

The basic requirement for trust companies under the Trust Company Act is for liquid assets to be maintained which equal or exceed 25 per cent of demand deposits and deposits withdrawable within thirty days. Eligible liquid assets are: lawful money of Canada and the debentures, stocks or other securities of Canada or a province. A higher rate may be imposed by the minister if it is considered necessary to protect depositors.

The basic requirement for credit unions under the Credit Union Act is for liquid assets to be maintained which equal or exceed 10 per cent of all deposits (including non-equity shares) plus money borrowed (including the issue of debentures) by the credit union. Eligible liquid assets are: demand and term deposits with a central credit union or chartered bank, non-equity shares of a central credit union, and investments in bonds, debentures or other evidence of indebtedness issued or guaranteed by the government of Canada or the province.

The liquidity requirement for all credit unions may be increased to as high as 12 per cent by way of regulation, or reduced for individual credit unions to as low as 8 per cent by order of the Credit Union Deposit Insurance Corporation board.

IV. DISCUSSION:

The draft regulation follows current practice and imposes separate liquidity requirements on trust companies and credit unions. The liquidity requirement for trust companies has been modelled after those in effect on Ontario and Quebec trust companies: unencumbered eligible liquid assets must be maintained which equal at least 20 per cent of short-term liabilities (deposits and financial obligations payable within 100 days or less).

A new separate liquidity requirement has been developed for credit unions which recognizes credit union system liquidity pooling. The credit union liquidity requirement is for each credit union to maintain cash-on-hand plus deposits at British Columbia Central Credit Union (B.C. Central) which equal 10 per cent of the credit union's total deposit and debt liabilities. The amount of cash-on-hand to be included in liquidity is limited to one per cent of deposit and debt liabilities.

No single credit union will be required to maintain deposits with B.C. Central which exceed 1.5 per cent of the total assets of all British Columbia credit unions, although such deposits may be kept at the credit union's discretion. A credit union affected by this provision will continue to be required to maintain 10 per cent liquidity; it will be able to hold assets which have been defined as eligible liquid assets for trust companies to make up the difference between its deposits with B.C. Central and its liquidity requirement of 10 per cent of its liabilities.

This liquidity requirement for credit unions has been developed in consultation with the credit union movement. It will ensure that the credit union system has a liquidity pool upon which any credit union can draw to maintain depositor confidence in the event of a crisis. The purpose of this provision is to have a simple rule which provides an adequate liquidity pool to support the system without the complexity associated with calculating specific short-term liabilities of individual credit unions. The rule recognizes the fact that the credit unions work together as a system and that liquidity pooling is mandatory. This is a case where institutional factors justify a different approach for credit unions and trust companies.

The provision exempting a credit union from the requirement to maintain its total 10 per cent liquidity requirement in deposits with B.C. Central has been provided to reduce the risk both to B.C. Central and to any large credit union which would otherwise be forced take a larger share of the total liquidity pool. This provision is also consistent with current practice, and has been endorsed by the credit union system.

LIQUIDITY REQUIREMENT REGULATION

Interpretation

1. (1) In this regulation

"Act" means the *Financial Institutions Act;*

"credit union" does not include a central credit union.

(2) In sections 3 (1) (a) and 4 (2) **"specified borrowings"**, of a trust company or credit union, means the aggregate of

- (a) overdrafts by the trust company or credit union, as shown in the accounting records, and
- (b) debt obligations owed to savings institutions or other lending institutions [excluding the Bank of Canada] that
  - (i) are repayable to the lender on demand of the lender or have a term to maturity when issued of not more than 7 days, and
  - (ii) are borrowed to enable the trust company or credit union to meet its short term requirements for liquid funds;

"prescribed liquid assets" means those assets that under section 3 are prescribed as the liquid assets of a trust company or credit union.

Application

2. This regulation does not apply to an extraprovincial trust corporation.

Prescribed types of liquid assets

3. For the purposes of section 67 (1) and (2) of the Act and of sections 4 and 5 (3) of this regulation, the assets of a trust company authorized to carry on deposit business or of a credit union that are unencumbered and are of any of the following types are prescribed as the liquid assets of the trust company or credit union:

- (a) cash on hand and deposits in other savings institutions that are repayable to the depositor on demand of the depositor minus specified borrowings;
- (b) at book value, any term deposits, bearer deposit notes, deposit certificates and similar instruments issued by another savings institution if they
  - (i) are insured under the *Canada Insurance Corporation Act* or through the deposit insurance corporation or another deposit insurer that has been named by regulation for the purpose of section 66 of the Act, and
  - (ii) are repayable to the depositor on demand of the depositor or after notice given by the lender of not more than 100 days, or have a term left to maturity of not more than 100 days;
- (c) at book value, treasury bills of Canada or a province;

(d) at market value, any bonds or other debt instruments that are issued or guaranteed by the Government of Canada or a province;

(e) at book value, loans that
  (i) are repayable to the lender on demand of the lender or after notice given by the lender of not more than 100 days, or have a term left to maturity of not more than 100 days,
  (ii) are fully secured by the types of assets specified in paragraphs (b) to (d), and
  (iii) are made to persons who are brokers, investment dealers or securities dealers registered in any province.

Liquidity requirement for deposit taking trust companies

4. For the purposes of section 67 (1) of the Act, a trust company authorized to carry on deposit business has sufficient liquid assets in relation to the business carried on by it if, but only if, the aggregate amount of its prescribed liquid assets is at least 20% of the aggregate amount of its liabilities described in paragraphs (a) to (d) below and the liabilities described in paragraph (e) below of its subsidiaries, if any:

(a) deposits that are repayable on demand;

(b) any term deposits, bearer deposit notes, deposit certificates and similar instruments that are repayable to the holder on demand of the holder or after notice given by the holder of not more than 100 days, or have a term left to maturity of not more than 100 days;

(c) any debt liabilities, other than those included in paragraphs (a) and (b), that are repayable to the holder on demand of the holder or after notice given by the holder of not more than 100 days, or have a term left to maturity of not more than 100 days;

(d) accrued interest on any liabilities described in paragraphs (a) to (c);

(e) any security instruments issued by a subsidiary of the trust company that are guaranteed by the trust company and are repayable to the holder on demand of the holder or after notice given by the holder of not more than 100 days, or have a term left to maturity of not more than 100 days.

Liquidity requirement for credit unions

5. (1) In this section **"deposit and other debt liabilities"** does not include liabilities of the types specified as capital items under section 4 of the Capital Requirements Regulation.

(2) For the purpose of subsections (3) and (4), a portion of a credit union's cash on hand that does not exceed 1% of its aggregate deposit and other debt liabilities may be counted as part of its deposits in British Columbia Central Credit Union.

(3) Where 10% of a credit union's aggregate deposit and other debt liabilities does not exceed 1.5% of the aggregate value of all credit union assets in British Columbia, then, for the purpose of section 67 (2) (a) of the Act, the credit union has sufficient liquid assets in relation to the business carried on by it if, but only if, the credit union has deposits in British Columbia Central Credit Union that are at least equal to 10% of the depositor credit union's deposit and other debt liabilities.

(4) Where 10% of a credit union's aggregate deposit and other debt liabilities exceeds 1.5% of the aggregate value of all credit union assets in British Columbia, then, for the purpose of section 67 (a) of the Act, the credit union has sufficient liquid assets in relation to the business carried on by it if, but only if, the credit union

(a) has deposits in British Columbia Central Credit Union in an amount that is at least equal to 1.5% of the aggregate value of all credit union assets in British Columbia, and

(b) has prescribed liquid assets, inclusive of the deposits referred to in paragraph (a), in an amount that is at least equal to 10% of the credit union's aggregate deposit and other debt liabilities.

Liquidity returns

6. Within 30 days after the end of each of the months of March, June, September and December in each year, every trust company authorized to carry on deposit business and every credit union shall

(a) prepare a liquidity return in the form in the Schedule, made up as of the end of that month, and

(b) file the liquidity return with the superintendent.

SCHEDULE

(Section 6)

Liquidity Return

[Here set out form.]

CHAPTER 6

RELATED PARTY TRANSACTIONS

I. **NAME:** Related Party Transactions Regulation

II. PURPOSE:

This regulation deals with transactions between related parties of financial institutions.

Part 5 of the FIA establishes a comprehensive regime for governing financial institutions' related party transactions, including the ability to prescribe, by regulation, if considered necessary or desirable, additional classes of related parties and restricted transactions, certain limits and further restrictions or conditions.

Authority for these regulations is provided by sections 142(1)(b), 146(c) and (d), 147(3)(a) and (b), 147(4)(b)(i) and (ii) of the FIA.

III. BACKGROUND:

Rules respecting related party transactions are designed to protect the interests of consumers and the public by preventing harmful non-arm's length transactions that may threaten a financial institution's solvency.

One approach is to apply a general ban on all related party transactions subject to certain specified exceptions, some of which require approval of the board of directors of the financial institution and others which require the approval of the regulator. This approach fails to recognize that many non-arm's length transactions are not harmful to the institution or its customers and, in fact, are a necessary, accepted part of a financial institution's ongoing operations.

British Columbia's approach will allow reasonable related party transactions, subject to certain limits and conditions and receiving the appropriate approval. The related party rules found in the FIA directly address the problem of potential abuse of influence, while also recognizing that related party transactions occur in and are necessary to the everyday business of a financial institution.

IV. DISCUSSION:

Basically, the related party provisions of the FIA:

- define a "related party" to encompass all parties with the potential to directly or indirectly control or influence a financial institution's decision-making;

IV. DISCUSSION: (Continued)

- permit all related party transactions so long as the transaction
  - is consistent with the usual business of the financial institution,
  - is in the best interests of a financial institution,
  - is carried out at fair market value,
  - conforms to any limits, and
  - is approved, as required, by the Conduct Review Committee or the Superintendent, as the case may be; and
- establish appropriate remedial actions and sanctions to encourage compliance and allow effective regulation.

In order to be flexible and to respond effectively as circumstances warrant, the FIA provides authority for further details and additional restrictions on related party transactions to be set by regulation.

Definition of Related Party

A director or officer of a financial institution or an affiliate of a financial institution is a related party of a financial institution. Additionally, the FIA provides authority for a "class of employee" to be prescribed as a related party (section 142(1)(b)). No regulation to designate a "class of employee" as a related party is contemplated at this time.

Value Limitations

Certain aggregate value limitations on related party transactions are specified in the statute (i.e., sections 145(4) and (6)), whereas other amounts or value limitations, for the sake of flexibility, are to be provided for by regulation.

Section 146 of the FIA permits a financial institution to enter into certain related party transactions without the necessity of being approved, including making loans to an individual who is a related party up to a prescribed amount (section 146(c)). The amount to be prescribed by regulation for this purpose is $100,000, excluding the value of loans secured by a mortgage on residential property also made to that individual.

IV. DISCUSSION: (Continued)

Value Limitations (Continued)

Section 146 of the FIA also permits a financial institution to buy or sell property or services having a fair market value to a related party up to a "nominal amount" (section 146(d)). The nominal amount to be prescribed by regulation is $100.

The FIA also provides that where a loan secured against a charge on property is made to a related party, the property must have a fair market value of not less than 100 per cent of the principal amount of the loan or such higher percentage as may be prescribed (section 147(4)(b)(ii)). There are no plans, at this time, to set a higher percentage under this provision.

Additional Restrictions

The Conduct Review Committee of the financial institution is responsible for approving any related party transactions that are not permitted outright under section 146, or transactions which the Committee is prohibited from approving under sections 147(3)(a), (b), (c) or (d).

Section 147(3)(a) provides authority for regulations to prescribe classes of transactions with related parties that the Conduct Review Committee cannot approve. No regulations defining such classes of transactions are planned at this time.

Section 147(3)(b) of the FIA prohibits the Conduct Review Committee from approving transactions involving interests in land other than a leasehold interest or a "prescribed interest". It is planned that regulations under section 147(3)(b)(ii) will be passed to permit the Conduct Review Committee to approve the purchase or sale of an interest in land which consists of one or more mortgages.

Definition of Low Quality Assets

Section 147(4) requires the Conduct Review Committee to be reasonably satisfied of certain factors before it can approve a related party transaction. One of these factors is that the property charged as security in a loan transaction not be in the "category of low quality asset" as that category is defined by regulation (section 147(4)(b)(ii)). Regulations will be passed to define a low quality asset as any asset that is "not current" or is "non-performing".

RELATED PARTY TRANSACTIONS REGULATION

Interpretation of regulation

1. (1) In this regulation **"Act"** means the *Financial Institutions Act*.

Interpretation applicable to the Act

2. (1) In section 146 (c) of the Act

"make a loan" means make a loan that would not otherwise be permitted under section 147 or 148 of the Act;

"the aggregate amount outstanding under all loans" means the aggregate amount outstanding under all loans that would not otherwise be permitted under section 147 or 148 of the Act.

(2) In section 146 (d) of the Act **"nominal amount"** means an amount that does not exceed $100.

Prescribed amount of loans

3. The amount prescribed for the purposes of section 146 (c) of the Act is $100 000.

Prescribed interests in land

4. A mortgage on residential real property is a prescribed interest in land for the purposes of section 147 (3) (b) of the Act.

Definition of low quality assets

5. In section 147 (4) (b) **"low quality assets"** include

(a) loans on which any principal or interest payment is past due for 90 days or more,

(b) loans on which any principal or interest payment is past due for less than 90 days and there is reason to believe that the principal and interest will not be fully recovered,

(c) assets, other than loans, on which any principal or interest payment is contractually past due,

(d) shares on which any dividend is past due,

(e) assets whose initial contractual provisions have been compromised or renegotiated by reason of the obligor's default or deteriorating financial condition, or

(f) assets where provision has been made for known, probable or possible losses.

CHAPTER 7

MARKETING OF FINANCIAL PRODUCTS

I. **NAME:** Marketing of Financial Products Regulation

II. PURPOSE:

This regulation deals with general issues associated with the marketing of the products of financial institutions. It applies to the activities of financial institutions and their agents.

Authority for this regulation is provided by sections 89, 90 and 94 of the FIA.

III. BACKGROUND:

Sections 88 to 96 of the FIA provide general provisions which apply to the marketing of financial products by financial institutions and their agents. The purpose of these provisions is to ensure that the public is not misled, has access to adequate information, can rely on the confidentiality of information provided and is not forced to buy a product or use a service as a condition of buying another product or using another service.

The regulations associated with these provisions:

- provide reasonable exemptions from the prohibition on the use of the word "guaranteed" to recognize current reasonable commercial practices;
- specify disclosure requirements; and
- provide a reasonable exemption from the prohibition on tied-selling.

IV. DISCUSSION:

The first proposed section of the marketing regulations allows savings institutions to use the term "guaranteed" for guaranteed investment certificates and similar instruments even when those instruments are not subject to deposit insurance. Section 89 of the FIA allows the use of the word only for investments and deposits which are insured or are supported by a *bona fide* third party guarantee. It applies to "any person" and thus includes banks as well trust companies and credit unions. (Savings institution means bank, trust company or credit union and is defined in the *Interpretation Act*.) It also includes all other individual and corporate persons.

IV. DISCUSSION: (Continued)

The purpose of this provision is to prevent a reoccurrence of some of the tactics used by the Principal group of companies and described in the report of Mr. Lyman Robinson released October 14, 1987. Investment contracts were often described as guaranteed or insured when, in fact, they were neither.

There is no intention, however, to affect the reasonable commercial practices of existing financial institutions. Due to the fact that deposit insurance provided by the Canada Deposit Insurance Corporation does not extend to any deposit or investment with a term in excess of five years, the FIA would prevent trust companies from using the term "guaranteed investment certificate" or other similar terms if the instrument has a term of greater than five years. That is considered to be an unnecessary intrusion into the affairs of national companies which are able to use those names everywhere else in Canada. Thus, it is proposed that those particular instruments be exempted from the FIA prohibition.

The second provision of the regulation sets out the disclosure requirements for persons acting on behalf of a financial institution or for a financial institution when acting on behalf of another person. Examples of the situations to which these disclosure requirements apply are deposit agents who take deposits on behalf of a trust company or credit union and an insurance agent selling insurance on behalf of an insurer.

The proposed requirements are that the following be disclosed:

- the relationship between the persons (principal and agent, employee/employer, etc.);
- any interest of one party in the other;
- any commissions or other compensation and the identity of the person paying the commission; and
- the fact that tied-selling is prohibited.

The final provision in the proposed regulation on marketing of financial products is an exemption from the tied-selling prohibition which would allow a trust company or credit union to require that a person receiving a loan maintain a deposit with the trust company or credit union as a condition of the loan. This is standard and prudent industry practice and should not be prohibited by the legislation.

MARKETING OF FINANCIAL PRODUCTS REGULATION

Tied selling permitted

1. (1) In this section **"lending transaction"** means a transaction under which a financial institution makes a loan to or guarantees indebtedness of any person.

(2) A financial institution or person acting in the lending transaction with the approval of a financial institution may require as a condition of a lending transaction that a person

(a) to whom the financial institution is making the loan, or

(b) on whose behalf the financial institution is undertaking the guarantee

must maintain an account with the financial institution or other person acting in the lending transaction with the approval of the financial institution.

Additional disclosure requirements

2. (1) In this section

"transaction" means a transaction described in section 90 (1) or (2) of the Act entered into by a financial institution or arranged by a person acting with the financial institution's approval;

"third party" has the meaning given it in section 90 (2) of the Act.

(2) In addition to disclosing the particulars required under section 90 (1) (c) of the Act, a person acting with a financial institution's approval who arranges a transaction described in that section of the Act shall disclose to the customer in writing

(a) that person's relationship with the financial institution,

(b) the nature and extent of that person's interest in the financial institution,

(c) the nature and extent of that person's interest in the transaction, including any right to receive a commission or other consideration in respect of the transaction,

(d) where a commission or other consideration is payable, the identity of the person paying it, and

(e) the prohibition against tied selling described in section 94 of the Act.

(3) In addition to disclosing the particulars required under section 90 (2) (c) of the Act

(a) a financial institution who arranges a transaction described in that section shall disclose to the customer in writing

  (i) the financial institution's relationship with the third party,

  (ii) the nature and extent of the financial institution's interest in the third party,

    (iii) the nature and extent of the financial institution's interest in the transaction, including any right to receive a commission or other consideration in respect of the transaction,
    (iv) where a commission or other consideration is payable, the identity of the person paying it, and
    (v) the prohibition against tied selling described in section 94 of the Act, and
- (b) a person acting with a financial institution's approval in circumstances where the person might reasonably be mistaken for an employee or representative of the financial institution who arranges a transaction described in that section of the Act shall disclose to the customer in writing
    - (i) the person's relationship with the financial institution and the third party,
    - (ii) the nature and extent of the person's interest in the financial institution and the third party,
    - (iii) the nature and extent of the person's interest in the transaction, including any right to receive a commission or other consideration in respect of the transaction,
    - (iv)where a commission or other consideration is payable, the identity of the person paying it, and
    - (v) the prohibition against tied selling described in section 94 of the Act.

Use of the word "Guarantee" Regulation

3. A savings institution may use the word "guaranteed" to describe an investment or deposit if

- (a) the investment or deposit is one commonly referred to by savings institutions as
    - (i) a "guaranteed investment certificate",
    - (ii) a "guaranteed investment receipt",
    - (iii) a "guaranteed investment fund", or
    - (iv) any abbreviation of the above,
- (b) the investment or deposit has a term exceeding 5 years, and
- (c) but for the term of the investment or deposit, it would have been insured by the Canada Deposit Insurance Corporation.

CHAPTER 8

A. INVESTMENT AND LENDING

I. **NAME:** Investment and Lending Regulation

II. **PURPOSE:**

When drafted, this regulation will deal with the investment and lending activities of financial institutions.

Under the FIA, financial institutions are required to adhere to prudent investment standards and to develop and implement their own investment and lending policy. This regulation will impose limited additional restrictions and conditions on the investment and lending activities of financial institutions.

The authority for this regulation is derived from sections 134, 136, 138 and 288(3)(r) of the FIA.

III. **BACKGROUND:**

The FIA requires financial institutions to exercise a high degree of self-regulation in connection with their investment and lending activities. The FIA requires financial institutions to adhere to prudent investment and lending standards, and to adopt and adhere to an investment and lending policy which is, itself, subject to review by the Financial Institutions Commission (Commission).

In addition, the proposed capital adequacy regulation effectively regulates the investment and lending activities of financial institutions by imposing a "capital cost" on assets held by a financial institution. The proposed capital adequacy regulation requires that high-risk assets be supported by more capital than low-risk assets. This capital requirement is intended to reinforce the prudent portfolio standard without imposing direct limitations on the investment and lending programs of financial institutions.

The FIA provides authority for regulations which supplement or reinforce the fundamental requirement for self-regulation. The investment and lending regulation presently under development is expected to deal with four issues: additional information that must be included in a financial institution's official investment and lending policy; investments which subsidiaries of financial institutions are permitted to make; the commercial lending approval program for credit unions and the possibility of imposing quantitative limits on certain investment; and investment and lending restrictions imposed in the interest of harmonizing with other jurisdictions.

IV. DISCUSSION:

This regulation is presently under development and has not yet been prepared in draft form. Amendments to the FIA may be required to ensure that there is sufficient authority for all provisions under consideration.

The investment and lending provisions imposed on financial institutions by the FIA are as follows:

- section 134 requires every financial institution to adhere to prudent standards in making investment and lending decisions, and requires that every financial institution develop an investment and lending policy for itself and its subsidiaries;
- the investment and lending policy of a financial institution must be submitted to the Commission for review within 90 days of a financial institution's financial year end (section 125);
- the Commission may issue an order that the board of a financial institution review the official investment and lending policy of the financial institution (section 135);
- section 136 prohibits a financial institution or subsidiary of a financial institution from making investments or loans which are inconsistent with the financial institution's official investment and lending policy, subject to:
    - any additional limits or conditions, prescribed under that section;
    - any additional provisions concerning investments and lending which may be undertaken by a subsidiary, prescribed under sections 138 and 228(3)(r);
    - a restriction against financial institutions and their subsidiaries having a greater than 10 per cent interest in any corporation or entity, other than one which is
        (i) a financial or ancillary business listed or prescribed under section 139(2), or
        (ii) is prescribed as an eligible investment of a subsidiary under section 138;
- sections 138 and 288(3)(r) provide authority for prescribing types of investment and loans which may be

IV. DISCUSSION: (Continued)

made by a subsidiary of a financial institution which is not to be subject to the prohibition imposed under section 136;

- section 141 gives the superintendent authority to order a financial institution to dispose of any investment made in contravention of the investment provisions in the FIA; and
- failure by a credit union to adhere to its official investment and lending policy provides grounds for a credit union to be put under supervision (section 274).

The proposed investment and lending regulation will supplement these provisions in the following areas:

Investment and Lending Policy

A number of matters which the investment and lending policy of a financial institution must address are specified in section 134(5). In addition, power is given in that section for additional matters to be prescribed which must be addressed in a financial institution's investment and lending policy.

Pursuant to that authority, the proposed regulation will require that the investment and lending policy of a financial institution specify procedures for

(a) identifying and evaluating commercial loan applications;

(b) monitoring commercial loans; and

(c) monitoring interest rate risk.

In addition, the regulation will require the financial institution to set a minimum level of investment in "safe" or low-risk assets in its investment and lending policy. For this purpose, safe assets are those with a risk rating of 50 per cent or less.

Investments of Subsidiaries

The investment and lending activities of subsidiaries of a financial institution are subject to the investment and lending policy of the financial institution. Subsidiaries are also subject to any general restrictions imposed in the FIA or regulations on the investment and lending activities of financial institutions, except where those restrictions are disapplied for subsidiaries pursuant to a regulation authorized by section 138.

IV. DISCUSSION: (Continued)

Investments of Subsidiaries (Continued)

The proposed regulation creates only two exceptions under section 138. It disapplies the 10 per cent ownership limitation imposed by section 136(d) in the case of a subsidiary which is a broker or underwriter of or dealer in securities, providing the investment is made in the course of the underwriting of a security issue. This exception is required to allow investment dealer subsidiaries of financial institutions to conduct their business. It also disapplies the 10 per cent ownership limit for venture capital corporation subsidiaries.

Credit Union Commercial Lending

Section 50(1) of the Credit Union Act prohibits credit unions from making a loan to a corporation or a loan for a business purpose except on terms and conditions approved by the Credit Union Deposit Insurance Corporation board. It is intended that a similar but somewhat modified provision will be included in the regulations. However, there is apparently not sufficient authority in the FIA for such a regulation and the regulation, itself, will not be drafted until the amendments to the Act are finalized.

It is proposed that the regulation would limit credit union loans for a commercial purpose to the greater of an amount secured by deposits of the borrower, $25,000 or the limit set for each credit union by the superintendent. Loans for a commercial purpose not falling within one of these categories would have to be approved by the superintendent.

This is similar to the current practice under the Credit Union Act, but differs in a number of important respects.

First, the focus of the regulation is on commercial loans instead of loans for a business purpose. This is a subtle distinction but would allow, for example, loans to an individual for investment in public traded securities to be treated as personal loans instead of business purpose loans. The extent to which the policy will be applied to commercial mortgages has yet to be determined and comments would be appreciated. Second, the practice has been to set a limit as a percentage of assets and apply the same formula to all credit unions. The regulation would specify that the limits are to be set on a credit-union-by-credit-union basis with reference to the credit union's commercial lending experience and expertise, capital base and lending and investment policy. It will be possible for the

IV. **DISCUSSION:** (Continued)

Credit Union Commercial Lending (Continued)

superintendent to remove the limit for a credit union so that the limit will effectively be the limit imposed by the credit union's own investment and lending policy. The other difference is that responsibility for the program will be in the hands of the superintendent, consistent with other investment and lending approvals in the FIA.

The requirement for superintendent's approval of commercial loans will be phased out over the next two years; the regulation will automatically be rescinded after two years and the enabling provision in the Act will be sunsetted. The credit union system has agreed to develop commercial loan evaluation mechanisms and/or other mechanisms such as unitized lending funds to assure that appropriate expertise is available to manage commercial lending activities where individual credit unions do not have sufficient internal resources.

Quantitative Investment and Lending Limits

Other provinces regulate investment and lending through a combination of qualitative limits and a prudent portfolio approach. British Columbia has chosen to use the prudent portfolio approach along with risk-weighted capital adequacy provisions which include what we refer to as "concentration adjustments".

The provinces are currently engaged in a "harmonization" exercise in an attempt to make the regulation of financial institutions, particularly trust companies, more compatible. In that context, British Columbia has agreed to consider some quantitative limits. Adoption of such limits would mean adjustment of the proposed capital adequacy approach. Comments on which of these approaches is preferable would be appreciated.

The quantitative limits currently under consideration as a result of the inter-provincial discussions are:

- a limit on the ratio of mortgage value to market value of property of 75 per cent. Such a limit could be imposed only on commercial mortgages or on both commercial and residential mortgages. It would not apply to insured mortgages. High ratio mortgages could still be made but would be classed as commercial loans;
- a limit of 2 per cent on the proportion of assets which are third or subsequent mortgages. A risk weighting approach could also be taken on this issue but none has been proposed, as yet;

IV. DISCUSSION: (Continued)

Quantitative Investment and Lending Limits (Continued)

- a requirement that at least 50 per cent of assets be "safe" (i.e., cash, government guaranteed securities, first mortgages, deposits in or debt securities of or guaranteed by other financial institutions);
- a limit on the proportion of corporate securities (Ontario uses 25 per cent) and, within that limit, a limit on shares (Ontario uses 10 per cent);
- a limit on commercial loans to 20 per cent of assets;
- a limit on investments in real estate by the financial institution and its subsidiary of 10 per cent of assets with further limits on the size of single parcels (2 per cent if "profitable" and one per cent if non-profitable). Real estate acquired by foreclosure would not be counted for the purposes of the limit unless it was held for more than 5 [7?] years;
- a limit on the aggregate amount of loans to one person and associates of the greater of $250,000 and one per cent of assets.

Other Changes

In addition, some changes to the provisions of the FIA are under consideration. The limit in section 139(3)(a) on the aggregate investment in subsidiary and associated corporations may be changed. It is currently 20 per cent. Instead, investments in a trust company, insurance company or bank may be excluded from the limit and the limit reduced to 5 per cent. The limit of 5 per cent for investments in real estate subsidiaries (section 139(3)(b)) may be changed to 2 per cent of assets and expanded to include other corporations such as venture capital corporations.

It has also been proposed that real estate investments be limited to subsidiaries, except for real estate acquired through foreclosure. Comments would be appreciated.

Other changes under consideration include a requirement for off-balance sheet hedging activities such as swaps and transactions with options and futures be used only for hedging purposes and not for speculation. Such a provision may be difficult to enforce, but is the appropriate policy for financial institutions to adopt and consistent with the increased concern about interest rate risk. Another possible provision is a limit on the size of unsecured (not fully secured) loans ($250,000 or one-tenth of one per cent of assets).

CHAPTER 8

B. INVESTMENT AND LOAN COMMITTEE

I. **NAME:** Investment and Loan Committee Regulation

II. **PURPOSE:**

This regulation prescribes duties and responsibilities of the investment and loan committee.

Authority for this regulation is provided by section 288(3)(l) of the FIA.

III. **DISCUSSION:**

Section 133 requires that directors of a financial institution appoint or elect, at their first directors' meeting following each annual general meeting, an investment and loan committee consisting of at least three individuals. The required composition of the committee is specified in the section.

The FIA imposes only two responsibilities on this committee. Section 134(3)(a) requires the committee to recommend to the directors an investment and lending policy for the financial institution, and section 134(3)(b) requires the committee to review, at least annually, that policy.

This regulation imposes the following additional responsibilities:

- the responsibility to ensure that the financial institution has procedures in place to implement the investment and lending policies of the financial institution; and,
- the responsibility to review and approve, at least annually, the credit approval procedures of the financial institution.

INVESTMENT AND LOAN COMMITTEE REGULATION

1. In addition to the duties specified in the Act, the investment and lending committee of a financial institution shall

(a) ensure the financial institution has procedures in place to implement the investment and lending policies of the financial institution, and

(b) review and approve, at least annually, the credit approval procedures of the financial institution.

CHAPTER 9

AUDIT AND FINANCIAL STATEMENTS

I. **NAME:** Audit and Financial Statements Regulation

II. **PURPOSE:**

This regulation deals with the form and content of financial statements, the additional qualifications required of an auditor of a financial institution and the additional responsibilities for the audit committee.

The authority for this regulation is contained in sections 111, 113(3), 127 and 288(3)(k) and (l) of the FIA.

III. **BACKGROUND:**

The FIA requires that a financial institution appoint an external auditor possessing the qualifications described in the Company Act. Section 111(b) of the FIA provides authority for regulations imposing additional qualifications. The proposed draft regulation ensures that an auditor of a financial institution is a person having appropriate experience in performing audits and is independent of the financial institution.

The FIA also requires the directors of a financial institution to establish an audit committee charged with reviewing the financial statements and other returns and reports required under the Act. Recognizing the importance of the audit committee to self-regulation within a financial institution, the proposed regulation imposes a number of additional responsibilities on the audit committee.

Section 127 of the FIA requires financial institutions to prepare financial statements in accordance with generally accepted accounting practices (GAAP). The proposed draft defines GAAP and sets out additional specific accounting requirements.

IV. **DISCUSSION:**

Section 1 of the proposed regulation defines GAAP to be the principles recommended in the Handbook of the Canadian Institute of Chartered Accountants. Section 2 imposes additional reporting requirements for insurance reserves and for trust deposits.

IV. DISCUSSION: (Continued)

Section 3 of the draft regulation requires an auditor of a financial institution to have at least five years' experience at a senior level performing audits of financial institutions or to have completed a specialized training program offered by the professional accounting association of which that auditor is a member. Consideration will be given to phasing this requirement in over a reasonable time period if it is demonstrated that immediate implementation would be excessively restrictive.

Section 4 of the draft regulation requires the audit committee to review a number of additional reports and statements and to make reports and recommendations not otherwise specifically referred to in the Act. This provision complements the expanded role imposed on the audit committee under the FIA which seeks greater communication between the committee, the auditor, management and the regulator. Its purpose is to ensure early identification of problems.

AUDIT AND FINANCIAL STATEMENTS REGULATION

Interpretation

1. In the Act and this regulation **"generally accepted accounting principles"** means, where a recommendation has been made in the Handbook of the Canadian Institute of Chartered Accountants, the principles recommended in that handbook.

Financial statements

2. (1) Without limiting the generality of section 127 of the Act

(a) a financial institution that is an insurance company shall set out separately in the balance sheet of the financial statement to be placed before an annual meeting, the reserves calculated in accordance with the "Valuation of Insurance Reserves Regulation", and

(b) a financial institution that is a trust company shall disclose in financial statement to be placed before an annual meeting, particulars in summary form of those assets held in trust, earmarked and set aside with respect to moneys received for guaranteed investment.

(2) Disclosure or explanatory information in respect of the matters under subsection (1) (a) may be made by way of notes to the financial statements.

Qualifications of auditor

3. In addition to being qualified under section 204 of the *Company Act* as it applies for the purposes of this Act, an auditor of a financial institution

(a) shall have at least [5] years experience at a senior level in performing audits of financial institutions, or

(b) where the professional accounting body of which the auditor is a member offers a program or course for auditors of financial institutions, shall have successfully completed that program or course, and

(c) shall not have been a receiver, receiver/manager, liquidator or trustee in bankruptcy of the financial institution or any of its affiliates within 2 years of the auditor's proposed appointment as auditor of the financial institution.

Additional duties of audit committee

4. In addition to any other duties given to it under the Act or the regulations, the audit committee of a financial institution shall

(a) review the financial statements of the subsidiaries of the financial institution, if any,

(b) review each financial report and statement [that requires the approval of the directors] before filing with a regulatory body,

(c) review with the auditor
    (i) the audit findings,
    (ii) any restrictions on the scope of the audit, and
    (iii) any problems or conflicts experienced by the auditor in performing the audit duties,

(d) review the response made by the directors to reports made by the auditor under section 121,

(e) review the internal accounting and internal control practices of the financial institution,

(f) report and make such recommendations to the directors respecting the internal accounting and internal control practices of the financial institution as the audit committee considers appropriate in the circumstances, and

(g) report to the directors any conflict between the auditor and the management of the financial institution that the audit committee has been unable to resolve within a reasonable time.

CHAPTER 10

A. LOCATION OF CREDIT UNION OFFICES

I. **NAME:** Location of Credit Union Offices Regulation

II. **PURPOSE:**

This regulation deals with general issues associated with the location of credit unions.

The authority under which this regulation is made is provided by sections 132(3) and 288(3)(q) of the FIA.

III. **BACKGROUND:**

The FIA imposes a number of obligations on financial institutions respecting the location and relocation of offices and provides authority for regulations to supplement the office requirements.

The proposed regulation imposes reasonable restrictions on the location of credit union branch offices based upon the nature of a credit union's common bond and its capital adequacy.

IV. **DISCUSSION:**

The proposed regulation restricts the location of credit union offices in a manner similar to the current Credit Union Act regulations. Credit unions having a common bond based on community or geographic area will continue to be be required to restrict branch offices to the same credit union region as the community or area described in their bond. However, the current regulations are modified to deal with those credit unions which amend a common bond from one based on occupation, social interest, and the like to one based on community or geographic area. In those circumstances, existing branch offices will be grandfathered if the superintendent is satisfied that the credit union has a capital base adequate to support the existing offices.

LOCATION OF CREDIT UNION OFFICES REGULATION

Interpretation

1. (1) In section 132 (3) of the Act, **"office"** means a place of business of a credit union at which it receives money for investment in shares or on deposit or at which it makes loans, but does not include a place of business where an automated banking machine and no other service of the credit union is located.

(2) In this regulation

"credit union region" means and includes

(a) the Kootenays credit union region, comprised of the area of land within the Kootenay Boundary, Central Kootenay and East Kootenay regional districts,

(b) the Northline credit union region, comprises of the area of land within the Cariboo, Kitimat-Stikine, Peace River-Liard, Buckley-Nechako, Central Coast, Fraser-Fort George and Skeena-Queen Charlotte regional districts and the area of the Province that is not within a regional district,

(c) the Okanagan credit union region, comprised of the area of land within the North Okanagan, Central Okanagan, Okanagan-Similkameen, Columbia-Schuswap and Thompson-Nicola regional districts and the part of the Squamish-Lillooet regional district that is east of the Cascade Mountains,

(d) the Vancouver Island credit union region, comprised of the area of land within the Capital, Cowichan Valley, Nanaimo, Alberni-Clayoquot, Powell River, Comox-Strathcona and Mount Waddington regional districts, and

(e) the Vancouver/Westminister/Fraser Valley credit union region, comprised of the area of land within the Sunshine Coast, Greater Vancouver, Central Fraser Valley, Dewdney-Allouette and Fraser-Cheam regional districts and the part of the Squamish-Lillooet regional district that is west of the Cascade Mountains;

"regional district" means a regional district incorporated under the *Municipal Act*.

Location of offices

2. (1) Subject to section 3, a credit union having a common bond of membership based on community or geographic area shall locate an office within the same credit union region as the community or geographic area described in its common bond.

(2) A credit union having a common bond of membership based on religious interest, ethnic interest, social interest, occupation or employment shall locate an

office within a credit union region from which its members may be conveniently served.

Location of offices after amending common bond

3. Where

(a) a credit union having a common bond of membership based on religious interest, ethnic interest, social interest, occupation or employment amends its common bond to one based on community or geographic area or to one having more than one basis, including community or geographic area, and

(b) the credit union has one or more offices located outside of the credit union region within which the community or geographic area described in its amended common bond is located,

the credit union shall not continue to operate any office located outside the credit union region within which the community or geographic area described in its amended common bond is located unless the superintendent is satisfied that

(c) the credit union has an adequate capital base to operate the office, or

(d) the office will assist the credit union to achieve or to maintain an adequate capital base, and

(e) operation of the office is not likely to increase the risk of claims against the fund.

Operating additional offices and relocating offices

4. A credit union shall not operate an additional office or relocate an office unless

(a) the superintendent is satisfied that

  (i) in relation to the business carried on by it, the credit union has an adequate capital base, or

  (ii) the additional office or the relocation of the office will assist the credit union to achieve or maintain an adequate capital base, and

  (iii) the additional office or the relocation of the office is not likely to increase the risk of claims against the fund, and

(b) where the credit union is one described in section 3, the additional office or relocated office is located within the same credit union region as the community or geographic area described in its common bond, and

(c) where the credit union has a common bond of membership based on community or geographic area, the additional office or relocated office is located within a credit union region in which the credit union already has an office.

CHAPTER 10

B. CREDIT UNION DEPOSIT GUARANTEE

I. **NAME:** Credit Union Deposit Guarantee Regulation

II. **PURPOSE:**

This regulation deals with the meaning of "separate deposit" under the FIA.

The authority under which this provision is made is provided by sections 265(2) and 288(3)(bb) of the FIA.

III. **BACKGROUND/KEY ISSUES:**

The FIA provides authority to prescribe those deposits that constitute a "separate deposit" for the purposes of applying the credit union deposit insurance guarantee limits. The proposed regulation continues the current definition of "separate deposit" for the purpose of the credit union deposit insurance guarantee.

The proposed regulation is intended to have exactly the same effect as the definition of separate deposits presently contained in the Credit Union Act regulations. Any differences between the two regulations are to make the language consistent with the FIA.

CREDIT UNION DEPOSIT GUARANTEE REGULATION

Interpretation

1. Unless the context requires otherwise, words and expressions defined in Part 9 of the Act have the same meaning for the purposes of this regulation.

Separate deposit

2. The following are separate deposits for the purposes of section 265 (2) of the Act:

(a) the aggregate of all deposits that are shown in the records of the credit union as trust accounts and that are deposited in trust for the benefit of the same beneficiaries;

(b) the aggregate of all deposits that are shown in the records of the credit union as joint accounts to the credit of the same joint depositors;

(c) the aggregate of all deposits that are shown in the records of the credit union as registered retirement savings plans under the *Income Tax Act* (Canada) to the credit of the same depositor;

(d) the aggregate of all deposits that are shown in the records of the credit union as registered retirement income funds under the *Income Tax Act* (Canada) to the credit of the same depositor;

(e) the aggregate of all deposits that are not referred to in paragraphs (a) to (d) that are credited to the same depositor in the records of the credit union.

Separate deposits on an amalgamation

3. (1) In this section "amalgamation" means an amalgamation under section 20 or 21 of the *Credit Union Incorporation Act* or the acquisition by one credit union of all or substantially all of the assets of another credit union under section 16 or 17 of the *Credit Union Incorporation Act*.

(2) Notwithstanding section 2, where a person has separate deposits in 2 or more credit unions that amalgamate (in this subsection called the "amalgamated credit union") and the separate deposits are carried over to the amalgamated credit union, each of those separate deposits continues for the purposes of section 265 (2) to be a separate deposit in the amalgamated credit union until the earlier of

(a) the withdrawal of all money from the separate deposit,

(b) 5 years after the date of amalgamation shown in the certificate of amalgamation issued under section 20 (7) (b) of the *Credit Union Incorporation Act*, or

(c) 5 years after the effective date put in a certificate of business acquisition issued under section 16 (8)(b) of the *Credit Union Incorporation Act*.

(3) Where, but for subsection (2), money in a depositor's separate deposit would not be guaranteed, the aggregate of all guarantees for all the depositor's separate deposits in the amalgamated credit union is reduced by the amount of any withdrawals from those deposits until the aggregate of all the guarantees for those deposits does not exceed the aggregate of all the maximum guarantees that would have applied to those deposits in the absence of subsection (2).

(4) Where a depositor deposits money in a separate deposit that has been carried over to the amalgamated credit union, the depositor is not entitled to make a claim under section 265 (3) of the Act in respect of that money unless the depositor would have been entitled to claim under section 265 (3) of the Act in the absence of subsection (2).

(5) Where a term deposit expires and is immediately reinvested in any other deposit in the amalgamated credit union, that transaction does not constitute a withdrawal for the purposes of subsection (2) or (3) and does not constitute a deposit for the purposes of subsection (4).

CHAPTER 10

C. FUND PROTECTION SYMBOL

I. **NAME:** Fund Protection Symbol Regulation

II. PURPOSE:

This regulation deals with the use of the fund protection symbol designating coverage under the credit union deposit insurance fund.

The authority under which this provision is made is section 273(2)(b) of the FIA.

III. BACKGROUND/KEY ISSUES:

The FIA provides for regulations governing the advertising of deposit insurance coverage by credit unions.

The proposed regulation associated with this provision restricts the manner in which a credit union may use the fund protection symbol authorized by the Commission.

IV. DISCUSSION:

The purpose of the regulation is to ensure consistency and uniformity in usage of the symbol representing deposit insurance coverage. The proposed regulation requires all credit unions to reproduce the fund protection symbol in accordance with standard guidelines and prohibits credit unions from incorporating the symbol into their own letterhead.

FUND PROTECTION SYMBOL REGULATION

Interpretation

1. In this regulation **"fund protection symbol"** means the mark, sign or device designating coverage under the fund issued by the commission under section 273 of the Act.

Restrictions on advertising

2. (1) The fund protection symbol shall not be reproduced by a credit union except in accordance with the Logo Reproduction Guidelines issued by the commission.

(2) The fund protection symbol shall not be incorporated within a credit union's letterhead.

CHAPTER 10

D. ISSUE OF SECURITY INSTRUMENTS BY CREDIT UNIONS

I. **NAME:** Issue of Security Instruments by Credit Unions Regulation

II. PURPOSE:

This regulation provides exemptions to the requirement that a credit union not issue equity shares or other security instruments until at least 14 days after it has filed with the superintendent a disclosure statement and establishes the form of the disclosure statement.

Authority for this regulation is provided by subsections 62(2) and 62(3) of the CUIA.

III. BACKGROUND:

Section 62(2)(a) of the CUIA requires a credit union to file with the superintendent a disclosure statement and other prescribed documentation 14 days prior to issuing equity shares or other security instruments. However, section 62(3) exempts membership shares and other types of prescribed equity shares and security instruments subject to prescribed circumstances or on prescribed conditions from this disclosure requirement.

IV. DISCUSSION:

The disclosure statement is modelled on the disclosure requirements of the Securities Act. Certain modifications have been made to take into account the special nature of credit unions and credit union equity shares.

At the present time, only three exemptions are proposed under section 62(3)(a):

1. security instruments (except equity shares) that are exempt under section 58 of the Securities Act from the requirement to file a prospectus;
2. security instruments (other than equity shares) for which a prospectus has been filed under section 42 of the Securities Act; and
3. the sale or lease of land for which a prospectus or a disclosure statement has been filed under the Real Estate Act.

The first exemption will ensure that security instruments of credit unions, other than equity shares, which are exempt under the Securities Act from the requirement to file a

IV. DISCUSSION: (Continued)

prospectus will also be exempt under the CUIA from any requirement to file a prospectus. The second exemption will ensure that there is no duplication of regulation - where a prospectus is required under the Securities Act no prospectus will be required under the CUIA. The third and final exemption will also ensure that there is no duplication by exempting security instruments for which there is a requirement to file disclosure information under the Real Estate Act.

ISSUE OF SECURITY INSTRUMENTS BY CREDIT UNIONS REGULATION

Exempt issue or security

1. Section 62 (2) of the [Act] does not apply to the following issues or security instruments:

(a) a security instrument that is exempt under section 58 of the *Security Act*, [from the requirement to file a preliminary prospectus and a prospectus] [except equity shares, other than membership shares, of a credit union];

(b) a security instrument for which a preliminary prospectus and a prospectus have been filed and receipts obtained under section 42 of the *Security Act*;

(c) the sale or lease of land for which

  (i) a prospectus has been filed under section 50 of the *Real Estate Act*, or

  (ii) a disclosure statement has been filed under section 50.1 of the *Real Estate Act* and a copy of the disclosure statement has been furnished to the purchasers of the land

Disclosure statement

2. In addition to the requirements for a disclosure form in section 62 of the *Credit Union Incorporation Act*, the following form of disclosure statement is prescribed:

Province of British Columbia

Ministry of Finance
and Corporate Relations

FINANCIAL INSTITUTIONS COMMISSIONS

GUIDELINES FOR DISCLOSURE STATEMENTS

For Credit Unions

INSTRUCTION The disclosure statement for the issuance of equity shares by a credit union required by section 62(2) of the CREDIT UNION ACT shall be in the following form.

A. FIRST PAGE

The first page of the disclosure statement must contain the following items:

(i) brief description of equity shares to be issued;
(ii) name of credit union;
(iii) head office address of credit union;
(iv) the following words: **"Neither the Superintendent of Financial Institutions nor any other authority of the government of the Province of British Columbia has in any way passed on the merits of the matters dealt with in this disclosure statement.";**
(v) the following words **"Not guaranteed by the Credit Union Deposit Insurance Corporation";**
(vi) certification statement of the board of directors.

B. DESCRIPTION OF EQUITY SHARES

Describe the equity shares to be offered and all material characteristics including the following information:

(i) dividend rights;
(ii) voting rights;
(iii) liquidation or distribution right;
(iv) recision and withdrawal rights after purchase of shares;
(v) conversion rights;
(vi) calls and redemption provisions;
(vii) sinking fund provisions;
(viii) provisions as to modifications, amendments or variation of any such rights or provisions.

Note: Only a brief summary of the provisions that are material from an investment standpoint is required. Do not set out verbatim the provisions attached to the shares; only a succinct resume is required. The credit union may set out the provisions attached to the shares in a schedule to the disclosure statement.

If the rights attached to the shares being offered are materially limited or qualified by the rights of any other class of securities or if any other class of securities ranks ahead of or equally with the shares being offered, include information regarding such other securities that will enable investors to understand the rights attached to the shares being offered.

If any shares being offered are to be offered in exchange for other securities, an appropriate description of the other securities shall be given.

C. PLAN OF DISTRIBUTIONS

Provide the following information on the equity shares being offered:

	PRICE TO		DISCOUNTS OR COMMISSIONS	PROCEEDS TO CREDIT UNION
	MEMBERS	NON-MEMBERS		
PER SHARE				
TOTAL				

The table should set out separately those shares which are underwritten, those under option and those to be sold on a "best efforts" basis. If the shares being offered are to be sold through underwriters, give the name of the underwriters. State briefly the nature of the underwriters' obligation to take up and pay for the securities. Where the plan of distribution does not involve a firm underwriting, disclose the method of distribution and the amount of any minimum subscriptions.

Note: If it is impracticable to state the offering price, the method by which it is to be determined shall be explained. In addition, if the shares are to be offered at the market, indicate the market involved and the market price as of the latest practicable date.

D. USE OF PROCEEDS TO CREDIT UNIONS

State the estimated net proceeds to be derived by the credit union from the sale of the shares to be offered, the principal purposes for which the net proceeds are intended to be used and the approximate amount intended to be used for each purpose. If any of the shares being offered are to be offered other than for cash, state briefly the general purposes of the issue, the basis upon which the shares are to be offered, the amount of compensation paid or payable to any person and any other expenses of distribution and by whom they are borne.

Note: If the offer is to be made pursuant to a plan of acquisition or amalgamation, describe briefly the general effect of the plan and state when it became or is to become operative.

E. MARKET FOR SHARES

Describe briefly, the market on which these shares may be sold. Where no bona fide market exists, or where a bona fide market will exist only after the distribution, describe how the shares will be redeemed and state in bold face type: **"There is no bona fide market through which these shares may be sold."**

F. TRANSFER AGENTS AND REGISTRARS

State the names of the credit union's transfer agents and registrars and the location of the registers of transfers.

G. OPTIONS TO PURCHASE SHARES

Describe the options, stating the material provisions of each class or type of option including:
(i) the class and number of shares under option;
(ii) the purchase price of the shares under option or the formula by which the purchase price will be determined and the expiration date of such options;

Give particulars of all options to purchase shares of the credit union that are held or proposed to be held:
(i) by senior officers and directors; naming each person;
(ii) by any senior officers or directors of subsidiaries of the credit union, naming each person;
(iii) by all other employees of the credit union as a group, without naming them;
(iv) by all other employees of the subsidiaries of the credit union as a group, without naming them;
(v) by any other person or company, naming each person or company.

H. CAPITAL STRUCTURE

Briefly describe the classes of shares issued including:
(i) particulars of each share class of credit union;
(ii) particulars of each share class of each subsidiary of the credit union; and,
(iii) particulars of any securities convertible into one of the share classes of the credit union.

I. DESCRIPTION OF BUSINESS

Briefly describe the business carried on and intended to be carried on by the credit union and its subsidiaries. Describe the general development of the business within the last five years.

Note: Include the business specifically authorized in the credit union's business authorization certificate. In describing developments, information shall be given as to matters such as the following: nature and results of any regulatory action, receivership, insolvency or similar action with respect to the credit union or any of its subsidiaries, the nature and results of any other material reorganization of the credit union or any of its subsidiaries, the acquisition or disposition of any material amount of assets other than in the ordinary course of business, material changes in the type of products produced or services rendered by the credit union and its subsidiaries, and, any material changes in the mode of conducting the business of the credit union or its subsidiaries.

J. RISK FACTORS

Briefly describe the risk factors of the credit union and the speculative nature of the equity shares being offered.

K. VARIATIONS IN OPERATING RESULTS

Explain to the extent reasonably practicable, any substantial variations, both favourable and adverse, in the operating results of the credit union over the past 5 years.
Note: The explanation should be in narrative form. However, where ratios are used to illustrate variations, a table may be used to supplement the narrative.

L. DIVIDEND RECORD

State the amount of dividends, allocations or other distributions, if any, paid by the credit union during the last 5 years.

M. DIRECTORS AND OFFICERS

List the names and home addresses in full of all directors and senior officers of the credit union and indicate all positions and offices with the credit union held by each director or senior officer.

N. AUDITOR AND FINANCIAL STATEMENTS

State the name and address of the auditor of the credit union. Attach a copy of the credit union's most recent audited financial statement and interim financial statements for the period ending not more than 60 days prior to the issue of these equity shares.

O. OTHER MATERIAL FACTS

Give particulars of any other material facts relating to the equity shares proposed to be offered.

Note:
It is an offence for a credit union to make a statement or to omit of a fact in a disclosure statement, required to be made under the CREDIT UNION INCORPORATION ACT, that, at the time and in the light of the circumstances under which it is made, is a misrepresentation.

CHAPTER 10

E. CREDIT UNION BUSINESS OUTSIDE OF PROVINCE

I. **NAME:** Credit Union Business Outside of Province Regulation

II. PURPOSE:

This regulation permits subsidiaries of credit unions which carry on a prescribed business to operate outside of the province.

Authority for this regulation is provided by section 81(2)(b) of the CUIA.

III. BACKGROUND/DISCUSSION:

Subsection 81(1) of the CUIA prohibits credit unions, other than central credit unions, from doing business outside of the province. However, subsection 81(2) provides certain exemptions to this prohibition: a credit union may perfect or register a security outside of the province, subsidiaries carrying on prescribed businesses may operate outside of the province, and a credit union may establish agents to serve credit union members who reside outside of the province.

This regulation permits trust company and insurance company subsidiaries of credit unions to operate outside of the province.

CREDIT UNION BUSINESS OUTSIDE OF PROVINCE REGULATION

1. A credit union subsidiary which carries on one or more of the following kinds of business may carry on that kind of business outside of the Province:

- (a) trust business;
- (b) deposit business;
- (c) insurance business.

CHAPTER 11

A. INSURANCE COUNCIL OF BRITISH COLUMBIA

I. **NAME:** Insurance Council of British Columbia Regulation

II. PURPOSE:

This regulation follows current practice by continuing the financial administration and reporting requirements imposed on the Insurance Council of British Columbia.

Authority for this regulation is derived from sections 172(1)(b), 181(1)(b) and 288(3)(t) and (w) of the FIA.

III. BACKGROUND/KEY ISSUES:

The proposed regulation follows current practice and continues the financial administration and reporting requirements recently imposed on the Insurance Council of British Columbia (Council) under the Insurance Act. The draft ensures that the Council remains fiscally accountable while performing its statutory duties under the FIA and provides for the payment of licensing fees.

IV. DISCUSSION:

Division 2 of Part 7 of the FIA continues the Council as a regulatory organization with statutory authority over the licensing and discipline of insurance agents, salespersons, adjusters and their employees.

To ensure that the Council, which is industry-funded and collects licence fees on behalf of the government, remains accountable for its financial decisions and practices, the proposed regulation provides that:

- annual audited financial statements and proposed budgets must be submitted to the Minister of Finance and Corporate Relations, who will also have the power to require surplus funds to be remitted to the government;
- the Council may only expend money for licensing, discipline and fee collection purposes; and
- disputes respecting financial matters will go to arbitration.

The proposed regulation also prescribes the fees payable for licences issued to insurance agents, salespersons and adjusters.

INSURANCE COUNCIL OF B.C. REGULATION

Interpretation

1. Unless the context requires otherwise, words and expressions defined in Division 2 of Part 6 of the Act have the same meaning for the purposes of this regulation.

Additional responsibilities

2. In addition to its responsibilities and duties under the Act, the council shall

(a) collect the fees set out in Schedule A and remit them to the commission in accordance with section 3,

(b) maintain books of account in a form and in a manner that facilitates the preparation of its financial statements in accordance with generally accepted accounting principles,

(c) prepare financial statements annually in accordance with generally accepted accounting principles,

(d) before June 1 of each year, appoint a person qualified under sections 204 and 207 of the *Company Act* as the auditor of the council for the following fiscal year,

(e) submit to the minister

  (i) no later than September 30 of each year, the financial statements for the previous fiscal year and a copy of the auditor's report, and

  (ii) at least 60 days before the beginning of each fiscal year, a copy of its proposed budget for that year, and

(f) send to every licensee and to every insurance company and extraprovincial insurance corporation that has a business authorization to carry on insurance business copies of the financial statements for the previous fiscal year.

Fees

3. (1) The fees payable to the commission by a licensee in respect of a licence are set out in Schedule A.

(2) The fees payable to the council by a licensee in respect of a licence are set out in Schedule B.

(3) The fees collected by the council under section 1 (a) shall be remitted to the commission within 7 business days after the end of the month in which the fees are collected.

(4) The fees referred to in subsection (3) shall be

(a) remitted in a form payable to the credit of the Minister of Finance and Corporate Relations, and
(b) accompanied by a statement showing an accounting of all fees collected to the end of the month.

SCHEDULE A

FEES PAYABLE TO THE COMMISSION

		$
1.	For cancellation or a suspension of a licence under sections 227 and 230 of the Act or of a permit under section 186 of the Act	25.00
2.	For reinstatement of a licence under section 227 or 230 of the Act	25.00
3.	For a licence issued under section 171 or 182 of the Act	50.00
4.	For a permit issued under section 186 of the Act	300.00
5.	For a temporary licence issued under section 182 of the Act	25.00
6.	For a licence issued to a resident in a jurisdiction that does not grant licences to residents of British Columbia, an additional fee of	75.00
7.	For an amendment to, [or transfer of,] a licence issued under sections 227 and 230 of the Act	12.50
8.	For an amendment of a permit issued under section 186 of the Act	25.00
9.	For publication in the Gazette - according to the scale of charges determined by or under the *Queen's Printer Act*	
10.	For each search	4.00
11.	For a certificate of a true copy or extract	25.00
12.	For a copy or extract of any document, 50¢ for each page or part of a page	

SCHEDULE B

FEES PAYABLE TO THE COUNCIL

1. Fees are payable to the council, in an amount determined by the council, for the following:

- (a) an amount not exceeding $100 for a licence issued under section 171 or 182 of the Act;
- (b) an amount not exceeding $12.50 for a change in status, amendment, transfer or reinstatement of a licence during the licence period;
- (c) each search;
- (d) each non-resident endorsement;
- (e) a certificate of a true copy of extract;
- (f) a copy or extract of any document;
- (g) any examination.

2. (1) In addition to the fees referred to in section 1, the council may, in order to carry out its functions and duties, charge every person licensed under Division 2 of Part 6 of the Act and every applicant for a licence under Division 2 of Part 6 of the Act an additional fee in an amount determined by the council.

(2) The fee payable by each applicant and licensee under subsection (1) shall not exceed $100.

(3) The ratio of the fee payable by each insurer under subsection (1) to the fee payable by each agent, nominee, salesman or adjuster under that subsection shall not exceed 5 to one.

CHAPTER 11

B. INSURANCE AGENTS, SALESPERSONS AND ADJUSTERS LICENSING

I. **NAME:** Insurance Agents, Salespersons and Adjusters Licensing Regulation

II. PURPOSE:

This regulation deals with a number of issues associated with the licensing and qualifications of insurance agents, salespersons and adjusters.

Authority for this regulation is provided by sections 169(5), 172(1)(c)(i), 181(1)(c)(i) and 288(3)(t) of the FIA.

III. BACKGROUND:

Division 2, Part 6 of the FIA provides that no person shall act as an insurance agent or adjuster unless licensed. Under the FIA, no licence will be issued unless an applicant meets a number of suitability requirements, including minimum educational and experience qualifications. The purpose of the proposed licensing provisions is to ensure that the public is served by persons having the skill and training needed to competently sell insurance and adjust losses in today's complex insurance market.

The proposed regulation:

- provides an incentive for life insurance agents to upgrade their education by adopting a two-level licensing system linking multi-company representation to the educational qualifications of an agent;

- establishes a multi-level licensing system for insurance adjusters based upon the educational and experience qualifications of the adjuster;

- imposes restrictions corresponding to the type of licence issued;

- ensures that less qualified salespersons and adjusters are under the supervision of persons with enhanced educational and experience qualifications; and

- ensures that persons nominated to act on behalf of another have adequate qualifications.

IV. DISCUSSION:

Under the current licensing system, life insurance agents hold either a "restricted" (entry level) licence or an "unrestricted" (broker's) licence. Those holding a "restricted" licence cannot sell the insurance products of a company other than their sponsor unless a "single case agreement" has been completed for each non-sponsor transaction. Those holding an "unrestricted" licence can sell the products of more than one company without having to obtain a "single case agreement". Presently, the sole criteria for obtaining an "unrestricted" licence is the holding of a "restricted" licence for a period of two years.

However, the life insurance industry is experiencing a period of rapid change. The numbers and types of life insurance products are increasing to meet the needs of a better informed and more demanding consumer. A life insurance agent must now have knowledge of a greater variety of insurance products designed to meet the financial needs of a more sophisticated consumer. Experience, alone, may not be adequate to ensure that an agent has the skills and knowledge necessary to review a client's needs in a professional manner.

Therefore, although this regulation continues the present "two-level" licensing system for life insurance agents, experience will no longer be the sole criteria for becoming a multi-company life insurance broker. Instead, entitlement to multi-company representation will be based upon the level of education and the knowledge of an agent. In addition, as an incentive for agents to upgrade their educational standards, no person will be permitted to hold an entry-level (level 1) licence for more than four years without writing a re-qualification examination.

The proposed regulation also establishes a multi-level licensing regime for general insurance agents and insurance adjusters based upon educational and experience qualifications. The criteria for licensing of these persons remains similar to the current practice, but consistent with the approach adopted for life insurance agents.

Since partnerships, corporations and other licensees operate through nominees, the regulation imposes qualification requirements which ensure that nominees are sufficiently knowledgeable.

A transition provision will ensure that persons presently holding licences will be issued the corresponding new licence without having to re-qualify under the new requirements.

INSURANCE AGENTS, SALESPERSONS AND ADJUSTERS LICENCE REGULATION

Interpretation

1. (1) In this regulation **"Act"** means the *Financial Institutions Act*.

(2) Unless the context otherwise requires, words and expressions defined in Division 2 of Part 6 of the Act have the same meaning for the purposes of this regulation as they have in that Division.

Classes of licences

2. For the purposes of this regulation, the following shall each be a distinct class of licence:

(a) general insurance salesperson's (level 1) licence;
(b) general insurance agent's (level 2) licence;
(c) general insurance agent's (level 3) licence;
(d) general insurance agent's (partnership or corporation) licence;
(e) insurance adjuster's (level 1) licence;
(f) insurance adjuster's (level 2) licence;
(g) insurance adjuster's (level 3) licence;
(h) insurance adjuster's (partnership or corporation) licence;
(i) life insurance agent's (level 1) licence;
(j) life insurance agent's (level 2) licence;
(k) life insurance agent's (partnership or corporation) licence.

Educational and experience qualifications for insurance agents and salespersons

3. (1) An applicant is not qualified for a life insurance agent's (level 1) licence unless, within the times stipulated by the council, the applicant has passed the qualification examinations set by the council.

(2) An applicant is not qualified for a life insurance agent's (level 2) licence unless, within the times stipulated by the council, the applicant has successfully completed one of the following:

(a) the Life Underwriter's Association of Canada Training Course;
(b) the Life Underwriter's Association of Canada Membership Qualifying Examination;
(c) the qualification examinations set by the council.

(3) An applicant is not qualified for a general insurance salesperson's (level 1) licence unless, within the times stipulated by the council, the applicant has successfully completed one of the following:

(a) the qualification examinations set by the council;

(b) the "Fundamentals of Insurance" course administered by the Insurance Brokers Association of British Columbia;

(c) Part 1 of the Canadian Accredited Insurance Broker Program (CAIB 1) administered by the Insurance Brokers Association of British Columbia and the ICBC Autoplan Essentials Course;

(d) courses C11, C71 and C72 offered by the Insurance Institute of Canada.

(4) An applicant is not qualified for a general insurance agent's (level 2) licence unless, within the times stipulated by the council, the applicant has successfully completed one of the following:

(a) Parts 1 and 2 of the Canadian Accredited Insurance Broker Program administered by the Insurance Brokers Association of British Columbia;

(b) Part 2 of the Canadian Accredited Insurance Broker Program administered by the Insurance Brokers Association of British Columbia and the "Fundamentals of Insurance" course offered by the Insurance Brokers Association of British Columbia;

(c) courses C11, C71, C72, C73 and C74 offered by the Insurance Institute of Canada;

(d) the qualifying examinations for qualification as an Associate or as a Fellow of the Insurance Institute of Canada;

(e) all courses necessary to receive the Canadian Accredited Insurance Broker designation from the Insurance Broker's Association of British Columbia.

(5) An applicant is not qualified for a general insurance agent's (level 3) licence unless

(a) the applicant has
  (i) within the times stipulated by the council, spent at least 2 years as a licensed general insurance agent or salesperson, or
  (ii) the equivalent experience acceptable to the council,

(b) the applicant is a director, officer, partner or branch manager of a general insurance agency or occupies a similar position of managerial responsibility, and

(c) within the times stipulated by the council, the applicant has successfully completed one of the following:
  (i) Parts 1, 2 and 3 of the Canadian Accredited Insurance Broker Program administered by the Insurance Brokers Association of British Columbia;
  (ii) Parts 2 and 3 of the Canadian Accredited Insurance Brokers Program administered by the Insurance Brokers Association of British Columbia plus the "Fundamentals of Insurance" course offered by that Association;
  (iii) courses C11, C71, C72, C73, C74, C75 and C76 offered by the Insurance Institute of Canada;
  (iv) the Fellow of the Insurance Institute of Canada Program with management option.

Educational and experience qualifications for insurance adjusters

4. (1) An applicant is not qualified for an insurance adjuster's (level 1) licence unless, within the times stipulated by the council, the applicant has completed, with grades acceptable to the council, the qualification examinations set by the council.

(2) An applicant is not qualified for an insurance adjuster's (level 2) licence unless the applicant meets one of the following requirements:

- (a) the applicant has at least 2 consecutive years experience in claims adjusting, at least one of which was in the Province or in another jurisdiction acceptable to the council, and has, within the times stipulated by the council, successfully completed at least 8 courses offered by the Insurance Institute of Canada leading to the designation of Associate of the Insurance Institute of Canada, or their equivalent, acceptable to the council;
- (b) the applicant has held an insurance adjuster's (level 1) licence for at least 2 consecutive years and, within the times stipulated by the council, has successfully completed at least 4 courses offered by the Insurance Institute of Canada leading to the designation of Associate of the Insurance Institute of Canada, or their equivalent, acceptable to the council; or
- (c) the applicant has at least one year experience in claims adjusting in the Province or in another jurisdiction acceptable to the council and, within the times stipulated by the council, has passed the qualifying examinations for qualification as an Associate of the Insurance Institute of Canada or an equivalent acceptable to the council.

(3) An applicant is not qualified for an insurance adjuster's (level 3) licence unless the applicant meets one of the following requirements:

- (a) the applicant has at least 5 consecutive years experience in claims adjusting, at least one of which was in the Province or in another jurisdiction acceptable to the council, and has, within the times stipulated by the council, successfully completed the qualifying examinations for qualification as an Associate of the Insurance Institute of Canada or an equivalent acceptable to the council; or
- (b) the applicant has at least 2 consecutive years experience in claims adjusting, at least one of which was in the Province or in another jurisdiction acceptable to the council, and has successfully completed the qualifying examinations for qualification as a Fellow of the Insurance Institute of Canada or an equivalent acceptable to the council.

Licence Restrictions

Restrictions on licences issued to life insurance agents

5. The following restrictions apply to every life insurance agent's (level 1) licence:

- (a) the licensee shall not engage in any occupation, employment or business activity other than
  - (i) general insurance agent,
  - (ii) registered mutual fund salesperson,
  - (iii) licensed real estate agent or salesperson, or
  - (iv) as otherwise approved by the council;
- (b) subject to paragraph (c), the licensee shall only act on behalf of the insurer named in the licence;
- (c) if the licensee is unable to effect life insurance on behalf of an applicant with the insurer named in the licence, the licensee may obtain the insurance from another insurer if the other insurer obtains the consent in writing of the insurer named in the licence and files a copy of the consent with the council and the commission;
- (d) every 4 years the licensee must pass the qualification examinations set by the council.

Restrictions on licences issued to general insurance salespersons and agents

6. The following restrictions apply to every general insurance salesperson's (level 1) licence:

- (a) the licensee shall not carry on general insurance business other than mobile autoplan business in any place except the premises of the general insurance agent or insurer named in the licence;
- (b) the licensee shall not sign policies of insurance;
- (c) the licensee shall not carry on general insurance business unless the licensee is under the direct supervision of a licensed general insurance agent.

Restrictions on licences issued to insurance adjusters

7. (1) The following restrictions apply to every insurance adjuster's (level 1) licence:

- (a) the licensee shall not make any adjustment or settlement of loss or damage except under the direct supervision of an adjuster who holds an insurance adjuster's (level 2) licence or an insurance adjuster's (level 3) licence;
- (b) all reports in relation to the adjustment of claims by the licensee shall be approved and countersigned by an adjuster who holds an insurance adjuster's (level 2) licence or an insurance adjuster's (level 3) licence;

(c) the licensee shall not engage in any additional employment other than that of an insurance adjuster unless the prior approval of the additional employer has been obtained and filed with the council.

(2) Every insurance adjuster's (level 2) licence is subject to the restriction that the licensee shall not act as the branch manager of a branch adjusting office unless the manager in charge of the head adjusting office in the Province holds an insurance adjuster's (level 3) licence.

Nominee qualifications

8. (1) The council shall not approve an application by a partnership or corporation for a licence in which an applicant is nominated to exercise on behalf of the partnership or corporation the rights and privileges conferred by the licence unless

(a) where the application is in respect of an agent's licence for life insurance, the council is satisfied that

  (i) the nominee holds a life insurance agent's (level 2) licence, and

  (ii) the nominee represents all of the insurers who the applicant will, when licensed, represent,

(b) where the application is in respect of an agent's licence for general insurance, the council is satisfied that the nominee holds a general insurance agent's (level 3) licence, and

(c) where the application is in respect of an insurance adjuster's, the council is satisfied that the nominee holds an insurance adjuster's (level 3) licence.

(2) The council shall not approve an application by an individual for an insurance agent's licence in which an individual who is a licensed insurance agent is nominated to exercise for and on applicant's behalf the rights and privileges conferred by the licence unless

(a) where the application is in respect of an agent's licence for life insurance, the council is satisfied that

  (i) the nominee holds a life insurance agent's (level 2) licence, and

  (ii) the nominee represents all of the insurers who the applicant will, when licensed, represent,

(b) where the application is in respect of an agent's licence for general insurance, the council is satisfied that the nominee holds a general insurance agent's (level 3) licence,

(3) The council shall not approve an application by a licensee to have a different individual approved as a nominee unless the council is satisfied that the new nominee holds the same class of licence as the nominee being replaced.

Licence period

9. Licences under Division 2 of Part 6 of the Act are issued for the period from and including the date of issue to the day preceding the second anniversary of the date of issue.

CHAPTER 11

C. RESTRICTED INSURANCE AGENTS LICENCE AND EXEMPTION

I. **NAME:** Restricted Insurance Agents Licence and Exemption Regulation

II. PURPOSE:

The purpose of this regulation is to exempt those persons who were previously exempt under the Insurance Act regulations from the licensing requirements of the Insurance Act.

In addition, this regulation provides for the licensing of travel agents and motor vehicle dealers who sell no insurance other than travel insurance or motor vehicle warranties incidental to their ordinary business. It also proposes the licensing of persons selling other third party warranties where the value of the product insured or the premiums charged exceeds a set amount.

Authority for this regulation is provided by sections 288(3)(t) and 288(3)(ee) of the FIA.

III. DISCUSSION:

Travel Insurance Sales

The employees and ticket agents of a transportation company licensed as an insurance agent under the Insurance Act are permitted to sell types of travel insurance without being licensed insurance agents (section 311(1)(g)). This exemption is continued under section 170(2)(g) of the FIA because the insurance sold is restricted to accident insurance only while travelling and to inland transportation insurance or marine insurance against loss of or damage to baggage of persons only while travelling. Moreover, this kind of insurance tends to be sold in the form of standard policies issued in respect of a particular ticket or trip. Its sale has not demanded extensive knowledge of the insurance business and, in any case, the requirement that a transportation company be licensed means someone with appropriate insurance knowledge can be made available as necessary.

For similar reasons, the sale of this type of insurance by travel agents registered under the Travel Agents Act and by their employees or commissioned agents has been also exempt from the licensing requirements for insurance agents (B.C. Reg. 389/81). However, travel insurance is increasingly broader than the above definitions, provides more detailed, specific coverage and has become correspondingly more complex. For example, policyholders must be aware of the terms of extended health care coverage

IV. DISCUSSION: (Continued)

Travel Insurance Sales (Continued)

purchased for travelling. More knowledge about both the policy and the prospective policyholder is required than for traditional kinds of travel insurance and there are no longer grounds for providing travel agents with a general exemption from insurance agent licensing requirements. At the same time, it would be unnecessary and extremely costly to require travel agents (or their employees or commissioned agents of travel agents) who sell no other classes except travel insurance, to meet all the licensing requirements.

Therefore, the existing regulation has been amended to require travel agents, and those of their employees who actually sell travel insurance, to hold a special insurance agent's licence, restricted to the sale of travel insurance. The intent is to help ensure that travel agents (and their employees or agents) are sufficiently knowledgeable about the travel insurance products they sell to provide appropriate information to their customers.

Third Party Warranties

The Sale of Goods Act applies to traditional manufacturers' warranties included in the price of the product. Extended warranties which demand additional payment constitute a form of insurance. However, manufacturers and retailers providing extended warranties have not been required to meet the licensing requirements of the Insurance Act. They have other obligations to their customers and are well motivated to honour extended warranties in order to maintain or increase market share and customer loyalty. The costs of imposing licensing requirements on all manufacturers and retailers would be enormous and not justified by any advantages to consumers. Therefore, the FIA will not apply to manufacturers' extended warranties.

However, extended warranties are increasingly provided by third parties where neither the manufacturer nor the retailer retains an obligation to the customer. Third parties have fewer incentives than manufacturers to ensure the customer understands the full implications of buying the warranty and companies providing such products are required to comply with the licensing requirements of the Insurance Act themselves, or to be underwritten by an insurer licensed to do business in British Columbia. The FIA will be applied in the same way.

IV. DISCUSSION: (Continued)

Third Party Warranties (Continued)

Although no specific exemption has been provided, individuals who sell third party warranties incidental to their primary occupation and who sell no other kinds of insurance have not been required to comply with insurance agent licensing requirements. The products are relatively new and the cost of requiring licensing has not been justified by the consumer protection benefits provided by licensing. Risk to consumers has tended to be low for most items covered by a third party warranty. Premium cost and exposure, for toasters and other appliances, for example, is relatively low.

However, this argument no longer applies to all third party warranties, particularly warranties where premiums and the cost of the product covered by warranty are significant. Moreover, while the warranty itself may be relatively simple, the arm's length relationship between the warranty provider and the product under warranty strains accountability in the marketplace. Consumers are potentially exposed to buying insurance where the seller's knowledge about the product (warranty) may be sufficient, but accountability is uncertain. Because the Trade Practice Act does not apply to insurance products, consumers have had little recourse beyond litigation.

The new regulation provides two new forms of restricted insurance agent licensing for those who sell third party warranties where premium cost and exposure are significant. The first applies to motor vehicle dealers who sell third party motor vehicle warranties incidental to the sale of an automobile. The second, which is only proposed at the present time, applies to persons selling any other type of third party warranty if the value of the product or the premium paid exceeds $5,000 or $500, respectively. The regulation is intended to clarify when licensing requirements apply and to improve accountability in the third party warranty market.

RESTRICTED AGENTS LICENCE AND EXEMPTION REGULATION

Interpretation

1. (1) In this regulation

"Act" means the *Financial Institutions Act;*

"forgery insurance" means insurance against loss caused by forgery;

"motor vehicle dealer" means a person who is registered as a motor vehicle dealer under the *Motor Dealer Act;*

"product warranty insurance" means a contract of insurance against loss of or damage to personal property other than a motor vehicle made between the purchaser of the property and an insurer whereby the insurer undertakes to assume the costs of repairing or replacing the personal property for a specific period of time;

"travel agent" means a person who is registered as a travel agent under the *Travel Agents Act;*

"travel insurance" means

(a) accident insurance against accidents to persons only while travelling,

(b) inland transportation insurance or marine insurance against loss of or damage to baggage or persons only while travelling,

(c) sickness insurance against sickness of persons only while travelling, or

(d) insurance against any loss by contingency or peril only while travelling;

"vehicle warranty insurance" means a contract of insurance against loss of or damage to a motor vehicle made between the purchaser of the motor vehicle and an insurer whereby the insurer undertakes to assume the costs of repairing or replacing the motor vehicle for a specific period of time.

(2) Unless the context requires otherwise, words and expressions defined in Division 2 of Part 6 of the Act have the same meaning for the purposes of this regulation as they have in the Act.

Applications to licensees

2. This regulation does not apply to a person holding a licence described in the Insurance Agent's, Salesperson's and Adjuster's Licence Regulation.

Classes of licences

3. For the purposes of this regulation, the following shall each be a distinct class of insurance agent's licence:

(a) restricted insurance agent's (product warranty insurance) licence;

(b) restricted insurance agent's (travel insurance) licence;

(c) restricted insurance agent's (vehicle warranty insurance) licence.

Application of Division 2 of Part 6 of the Act

4. (1) Section 170 of the Act does not apply to

(a) a person who acts as an insurance agent only in respect of product warranty insurance [if the purchase value of the insured personal property is less than $5 000 and [or] the premium paid for the warranty insurance is less than $500],

(b) a person who acts as an insurance agent only in respect of forgery insurance sold incidental to the sale, maintenance or repair of chequewriter machines,

(c) the Real Estate Errors and Omissions Insurance Corporation,

(d) an employee of the Real Estate Errors and Omissions Insurance Corporation who does not act as an insurance agent in any other capacity,

(e) an employee of a licensed general insurance agent who

  (i) acts as an insurance salesperson only in respect of automobile insurance issued by the Insurance Corporation of British Columbia,

  (ii) is under the direct supervision of a licensed general insurance agent,

  (iii) has been employed by the licensed general insurance agent for less than 6 months,

  (iv) meets all requirements of section 172 (1) of the Act other than the requirements of paragraphs (b) and (c) (i) of that section, and

  (v) has successfully completed the Autoplan Essentials Course offered by the Insurance Corporation of British Columbia,

(f) an employee or commissioned sales representative of motor vehicle dealer who holds a restricted insurance agent's (vehicle warranty insurance) licence if

  (i) the motor vehicle dealer has delivered to the council a written designation authorizing the employee or commissioned sales representative to solicit vehicle warranty insurance incidental to the ordinary business of the motor vehicle dealer, and

  (ii) the employee or commissioned sales representative is acting as an insurance agent only in respect of vehicle warranty insurance sold incidental to the ordinary business of the motor vehicle dealer.

(2) Section 172 (1) (iv) does not apply to an applicant for a restricted insurance agent's (travel insurance) licence or a restricted insurance agent's (vehicle warranty insurance) licence.

(3) **[Product warranty licences?]**

Educational and experience qualifications for licensees

5. (1) An applicant who

(a) is a travel agent or an employee or commissioned sales representative of a travel agent, and

(b) within the time stipulated by the council, has passed the travel insurance examination set by the council,

is eligible to be issued a restricted insurance agent's (travel insurance) licence.

(2) An applicant who is a motor vehicle dealer is eligible to be issued a restricted insurance agent's (motor vehicle warranty) licence.

(3) **[Eligibility rules for product warranty insurance?]**

Licence restrictions

6. (1) The holder of a restricted insurance agent's (travel insurance) licence shall not act as an insurance agent except in respect of travel insurance solicited incidental to the ordinary business of the travel agent.

(2) Every restricted insurance agent's (motor vehicle warranty) licence carries and is subject to the following restrictions:

(a) the licensee shall not act as an insurance agent except in respect of motor vehicle warranty insurance solicited incidental to the ordinary business of the motor dealer, and

(b) the licensee shall not permit its employees or commissioned sales representatives to solicit motor vehicle warranty insurance in the course of their duties unless they have been by the licensee designated under section 3 (1) (f).

(3) **[Restrictions on product warranty licences?]**

D. CONDITIONS RESPECTING LICENCES ISSUED TO INSURANCE AGENTS AND ADJUSTERS

I. **NAME:** Conditions Respecting Licences Issued to Insurance Agents and Adjusters Regulation

II. **PURPOSE:**

The purpose of this regulation is to require all partnerships and corporations to have an approved nominee. In addition, this regulation ensures that the public is served by adjusters having an adequate level of skill and training.

Authority for this regulation is provided in section 288(3)(g) of the FIA.

III. **DISCUSSION:**

The FIA requires a partnership or corporation to nominate a nominee to exercise the rights conferred by its licence. This regulation expands this requirement by making it a condition of every licence that there, at all times, be a nominee approved by the Council.

The regulation also continues the existing requirement that all insurance adjusters' offices be supervised by persons having enhanced experience and educational qualifications.

CONDITIONS RESPECTING LICENCES ISSUED TO INSURANCE AGENTS AND ADJUSTERS REGULATION

Interpretation

1. Unless the context otherwise requires, words and expressions defined in Division 2 of Part 6 of the Act have the same meaning for the purposes of this regulation as they have in that Division.

Conditions respecting insurance agents

2. It is a condition of every licence issued to an insurance agent who is a partnership or corporation that the insurance agent has a nominee approved by the council.

Conditions respecting insurance adjusters

3. (1) It is a condition of every licence issued to an insurance adjuster who is a partnership or corporation that the insurance adjuster has a nominee approved by the council.

(2) Every licence issued to an insurance adjuster is subject to the following conditions:

(a) the licensee is acting as an insurance adjuster only in respect of the class or classes of insurance stated in the licence;

(b) where the licensee operates offices in more than one location,

  (i) there is at least one licensee holding an insurance adjuster's (level 2) licence in each place of business open to the public, and

  (ii) there is a manager who holds an insurance adjuster's (level 3) licence in charge of the licensee's head office in the Province.

CHAPTER 11

E. REPLACEMENT OF LIFE INSURANCE CONTRACTS

I. **NAME:** Replacement of Life Insurance Contracts Regulation

II. **PURPOSE:**

This regulation places restrictions on the replacement or cancellation of life insurance policies.

Authority for this regulation is derived from sections 176(a) and 288(3)(u) and (v) of the FIA.

III. **BACKGROUND:**

Section 176(a) of the FIA prohibits a life insurance agent from inducing a policy owner to replace an existing insurance contract with a new contract of insurance, except as authorized by the regulations. Since cancellation or replacement of an insurance contract may be detrimental to the best interests of a policy owner, this provision ensures that agents do not permit their interests in making a sale override the interests of the policyholder.

IV. **DISCUSSION:**

The proposed regulation continues the replacement regulation made under the Insurance Act. The purpose of this regulation is to prevent insurance agents from inducing policyholders to cancel or replace policies when doing so would be contrary to the best interests of the policyholder.

REPLACEMENT OF LIFE INSURANCE CONTRACTS REGULATION

Interpretation

1. In this regulation

"Act" means the *Financial Institutions Act;*

"contract of life insurance" means individual life insurance policies, policy riders and annuity contracts issued by a life insurance company;

"disclosure statement" means the Basic Disclosure Statement Regarding Replacement of Contracts of Life Insurance set out in the Schedule and includes the agent's and applicant's statements on that form;

"life insurance agent licensee" means a person licensed as an insurance agent for life insurance, or life insurance together with either or both of accident insurance and sickness insurance;

"replacement of a contract of life insurance" means any transaction in which life insurance is to be purchased in a single contract or in more than one related contract by a person from an insurer and, as a consequence of the transaction, any existing contracts of life insurance have been or are to be

(a) rescinded, lapsed or surrendered,
(b) changed to paid up insurance or continued as extended term insurance or under automatic premium loan,
(c) changed in any other manner to effect a reduction of benefits in a contract of life insurance,
(d) changed so that cash values in excess of 50% of the tabular cash value of any contracts of life insurance are released, or
(e) subjected to substantial borrowing of any policy loan values whether in a single loan or under a schedule of borrowing over a period of time whereby an amount in excess of 50% of the tabular cash value is borrowed on one or more contracts of life insurance,

but does not include a transaction in which,

(f) a new contract of life insurance is made with an insurer with whom the applicant has an existing contract of life insurance in furtherance of a contractual privilege exercised by the policyholder under the existing contract of life insurance issued by the insurer,
(g) the contract to be replaced is an annuity, or
[(h) a contract is replaced by group insurance.]

Replacement of life insurance contract

2. (1) A life insurance agent licensee may induce an insured, as described in section 176 (a) of the Act, to lapse, forfeit or surrender the insured's contract of life insurance with one insurer in order to effect a new contract of insurance with another insurer if, but only if,

(a) replacement of the existing contract of life insurance with the new one [is not] [could not be] detrimental to the interests of the insured, and

(b) the replacement or proposed replacement is in accordance with section 3.

[(2) Without limiting section 176 (a) of the Act or subsection (1) of this regulation, no life insurance agent licensee shall induce an insured to lapse, forfeit or surrender for cash, or for paid up or extended insurance, or for other valuable consideration, the insured's contract of life insurance with an insurer in order to effect another contract of life insurance with that insurer unless

(a) replacement of the existing contract of life insurance with the new one [is not] detrimental to the interests of the insured, and

(b) the replacement or proposed replacement is in accordance with section 3.]

Duties of life insurance agent licensees

3. (1) Where a replacement of a contract of life insurance could be detrimental to the interests of an insured [a life insurance agent licensee] shall make every reasonable effort to maintain the existing contract of life insurance in force.

(2) Where it appears that, due to a change in circumstances, an existing contract of life insurance should be amended or changed to another contract of life insurance, a life insurance agent licensee shall endeavour to have the existing contract amended or changed by the insurer that issued the existing contract of life insurance, in order that any values, credits or privileges in the existing contract may be transferred to the amended or changed contract of life insurance, unless the amendment or change by the existing insurer would be detrimental to the [best] interests of the insured.

(3) Every life insurance agent licensee shall

(a) obtain as part of each application for a contract of life insurance a statement signed by the applicant stating whether or not replacement of a contract of life insurance is intended, and

(b) prepare and forward to the insurer with each application for a contract of life insurance a statement stating whether or not replacement of a contract or contracts of life insurance is intended.

(4) Where replacement of a contract of life insurance is intended, every life insurance agent licensee, before taking a new application, shall

(a) present and review with the applicant a completed disclosure statement, and

(b) secure the applicant's signature, along with the signature of the life insured if other than the applicant, attesting to the receipt of the disclosure statement.

(5) On taking an application where replacement of a contract of life insurance is intended, every life insurance agent licensee

(a) within 3 working days of the date of application, shall forward to every insurer whose contract of life insurance is intended to be replaced, a fully completed copy of the disclosure statement as presented to and signed by the applicant,

(b) shall forward to every insurer that has been requested to issue a new contract or contracts of life insurance a fully completed copy of the disclosure statement as presented to and signed by the applicant along with a copy of all written proposals presented to the applicant by the agent and all written directions received by the agent from the applicant, and

(c) unless contrary written instructions have been received from the applicant, shall deliver the new contract or contracts of life insurance as soon as practical.

Duties of life insurer

4. (1) Every life insurer shall

(a) ascertain whether or not its agent has complied with the requirements of this regulation and the Act [respecting the replacement of contracts of life insurance], and

(b) maintain in its chief office in Canada for at least 3 years copies of all material that its life insurance agent licensee is required to forward under section 3 (3) and (5), and

(c) issue all [new] [replacement] contracts of life insurance as soon as practical.

(2) An applicant for the replacement of a contract of life insurance may withdraw, in writing, the application within 20 days of the delivery of the completed disclosure statement signed by the life insurance agent licensee.

(3) Where the applicant withdraws an application under subsection (2), the life insurer shall refund any premium deposit or other payment made by the applicant in respect of the proposed replacement of a contract of life insurance, unless the application is for a single premium contract of life insurance or for a contract of life insurance the value of which depends upon a stated rate of interest or a stated group of assets or both; and in that case the refund shall be adjusted to reflect the change in the capital value of the contract.

Offence

5. A person who contravenes sections [instructions please] commits an offence.

BASIC DISCLOSURE STATEMENT REGARDING REPLACEMENT OF CONTRACTS OF LIFE INSURANCE

This statement is designed to provide you with information that you might find helpful in deciding whether to change your life insurance. Such a change may involve the use of proceeds available to you under your life insurance to buy replacement life insurance. As it will be necessary to decide what change is the most advantageous for yourself or your beneficiaries, you are encouraged to seek comments or quotations from your life insurance agent and the life insurance company which issued your existing life insurance contract.

In the event that you decide to replace an existing contract(s) of life insurance you should make certain that the new contract(s) that has been delivered to you, is in force and is acceptable to you before you take any action to terminate the existing contract(s).

AGENT'S STATEMENT: The primary reason for recommending replacement of the life insurance referred to on this Disclosure Statement is:

____

____

The life insurance to be replaced cannot adequately fulfill the policyowner's intended objective for the following reason(s):

____

____

____

Agent's Name (Please print)

____________________ ____________________

Date Agent's Signature

APPLICANT'S STATEMENT: I acknowledge being advised that there may be advantages or disadvantages in replacing life insurance policies, some of which are:

(a) by replacing my contract of life insurance I may be paying the acquisition costs twice because these are charged in the early years of my contract(s);

(b) because my contract of life insurance was purchased at a younger age, I may pay more for a new contract having the same or similar benefits;

(c) as the incontestable and suicide clauses begin to run again in a new contract, a claim may be denied under a new contract which would have been paid under the contract replaced;

(d) as a change in my health may have adversely affected my insurability, a new contract may contain certain restrictions or limitations and may be more costly;

(e) policy conditions or benefits, including the interest rate on policy loans, may be more favourable under the existing contract of life insurance to be replaced;

(f) if the transaction to purchase a new contract(s) of life insurance involves borrowing the cash value of my existing contract(s) of life insurance beyond my expected ability or intention to repay the loan, a loss or reduction of the benefits under my existing contract(s) of life insurance will result;

(g) by replacing or changing my contract of life insurance, acquired prior to December 2, 1982, or in the case of corporate owned life insurance prior to June 29, 1982, I may lose valuable tax advantages within the existing policy, and

(h) a copy of this disclosure form will be sent to the life insurers which issued the contract(s) of life insurance to be replaced.

I also acknowledge receipt of a fully completed Disclosure Statement Regarding Replacement of Contracts of Life Insurance and acknowledge that it was presented to me before the application for new insurance was signed.

I have been advised by the agent who signed this form that I may withdraw, in writing, my application for new insurance within twenty days and that the insurer will refund any premium deposit or other payment made by me in respect of the proposed replacement of a contract of life insurance, except if the application is for a single premium life insurance policy, or a policy the value of which depends upon a stated rate of interest and/or a stated group of assets, in which case the refund shall be adjusted to reflect the change in the capital value of the contract.

Date	Signature of Applicant	Name of Applicant (please print)
Date	Signature of Applicant	Name of Life Insured (if other than applicant)(please print)

NOTE TO AGENT: If more than one existing contract of life insurance is to be replaced, a separate form must be completed for each existing contract.

This form has been approved by C.L.H.I.A. and L.U.A.C. and is recommended for use by the Canadian Council of Superintendents of Insurance.

BASIC DISCLOSURE STATEMENT REGARDING REPLACEMENT OF CONTRACTS OF LIFE INSURANCE

	Existing Insurance	Proposed Insurance
GENERAL INFORMATION		
Policy Number		
Name of life insured		
Date of birth of life insured		
Name of policyowner (if other than life insured)		
Insurance company		
Type of contract (Whole Life, Term, Univ. Life, etc.)		
Date of Application		
Note: The date your existing life insurance policy was acquired will be a major factor in determining the tax rules that will apply if the policy is surrendered or changed.		
Date of issue		
Issued standard	☐ Yes ☐ No	
Policy registered	☐ Yes ☐ No	☐ Yes ☐ No
Guaranteed insurability option (at what ages)		
Loan interest rate		
Loan outstanding	☐ Yes ☐ No	
Date suicide period expires		
Date contestable period expires		
Additional benefits (specify)		
DEATH BENEFITS		
Face Amount of insurance - now		
- at age 65		
- protection expires		
Face Amount of Term Rider - now		
- at age 65		
- protection expires		
Additional Death Benefit (specify)		
GUARANTEED CASH VALUES OR DEPOSITS		
Now		
At age 65		
Current and projected interest rate if applicable (Adjustable contract, eg. Univ. Life)		
DIVIDENDS		
Participating Policy	☐ Yes ☐ No	☐ Yes ☐ No
Dividend option selected		

		Existing Insurance	Proposed Insurance
ANNUALIZED PREMIUMS			
Basic Policy	- current amount		
	- guaranteed until		
	- payable until		
Term Rider	- current amount		
	- guaranteed until		
	- payable until		
Additional Benefits	- current amount		
	- guaranteed until		
	- payable until		
Total annualized premium			

Have the income tax implications of this change or replacement been fully explained to the policyowner [ ] Yes [ ] No

Additional comments/special circumstances

Agent's Name ______________________ (please print)

Applicant's Name ______________________ (please print)

Agent's Signature ______________________

Applicant's Signature ______________________

Date ______________________

CHAPTER 11

F. REINSURANCE

I. **NAME:** Reinsurance Regulation

II. **PURPOSE:**

This regulation imposes requirements on insurance companies respecting reinsurance.

Authority for this regulation is provided by sections 78 and 288(3)(y) of the FIA.

III. **BACKGROUND:**

The Insurance Act does not currently impose any limits or restrictions on insurance companies obtaining reinsurance. However, since insurance companies which reinsure heavily or reinsure mostly with unlicensed, off-shore reinsurers may be taking undesirable risks, the proposed regulation:

- imposes limits on the total amount of reinsurance that can be placed with reinsurers; and
- limits the amount of reinsurance that may be placed with unlicensed reinsurers.

IV. **DISCUSSION:**

The purpose of the reinsurance provisions is to protect the public from the risks associated with companies placing too much reinsurance with unregulated, off-shore reinsurers while permitting companies to benefit from that more competitive off-shore market.

The proposed regulation will parallel the reinsurance regulations proposed by the federal government and includes provisions:

- restricting companies other than those transacting life insurance from reinsuring more than 75 per cent of the risks undertaken in any year;
- restricting those same companies from reinsuring more than 25 per cent of the risks undertaken in any year with insurers not regulated somewhere in Canada; and
- providing for a four-year phase-in period.

REINSURANCE REGULATION

Interpretation

1. In this regulation

"Act" means the *Financial Institutions Act;*

"authorization year", in relation to an insurance company, means the calendar year in which [the] insurance company is issued a business authorization;

"effective year" means the calendar year in which this regulation comes into force;

"gross premium income" means the premium income of an insurance company from its policies calculated without reduction in respect of reinsurance premiums paid or payable;

"insurance company" includes

- (a) a society that is deemed under section 190 of the Act to have a business authorization, and
- (b) a mutual fire insurance company as defined in section 187 of the Act;

"unauthorized insurer" means an insurer not licensed, registered or otherwise authorized to carry on the business of insurance in Canada.

Application

2. This regulation does not apply to an insurance company authorized to carry on life insurance business only or to the life insurance business of an insurance company authorized to carry on both life insurance business and one or more classes of general insurance.

Reinsurance

3. (1) An insurance company other than an insurance company described in subsection (2) or (3) shall not obtain reinsurance against more than 75% of the aggregate amount of all risks undertaken by it in any calendar year.

(2) An insurance company that, in the calendar year immediately before the effective year, obtained reinsurance against more than 75% of the aggregate amount of all risks undertaken by it in that calendar year shall not obtain reinsurance

- (a) in the effective year, against more than the lesser of
  - (i) 90% of the aggregate amount of all risks undertaken by it in the effective year, and
  - (ii) the percentage of the aggregate amount of all risks against which it obtained reinsurance in the calendar year immediately before the effective year,
- (b) in the first calendar year following the effective year, against more than the lesser of

(i) 85% of the aggregate amount of all risks undertaken by it in that [calendar] year, and

(ii) the percentage of the aggregate amount of all risks against which it obtained reinsurance in the year immediately before the effective year, and

(c) in the second calendar year following the effective year, against more than the lesser of

(i) 80% of the aggregate amount of all risks undertaken by it in that [calendar] year, and

(ii) the percentage of the aggregate amount of all risks against which it obtained reinsurance in the calendar year immediately before the effective year.

(3) An insurance company that is issued a business authorization after this regulation comes into force shall not obtain reinsurance

(a) in the authorization year and the first calendar year following the authorization year, against more than 90% of the aggregate amount of all risks undertaken by it in each of those years,

(b) in the second calendar year following the authorization year, against more than 85% of the aggregate amount of all risks undertaken by it in that calendar year, and

(c) in the third year following the authorization year, against more than 80% of the aggregate amount of all risks undertaken by it in that calendar year.

(4) The percentage of the aggregate amount of all risks undertaken by an insurance company against which it obtains reinsurance in a calendar year shall be calculated by dividing the premiums paid or payable by the insurance company in that calendar year in respect of the reinsurance of the risks undertaken by the insurance company by the gross premium income of the insurance company in that calendar year, and then multiplying the quotient so obtained by 100.

(5) For the purpose of subsection (4), premiums paid or payable by an insurance company are without reduction in respect of commissions, expense allowances and other consideration received or receivable by the insurance company.

Reinsurance through unauthorized insurers

4. (1) For the purpose of section 78 of the Act, the reinsurance that an insurance company may obtain through unauthorized insurers is limited to an amount of reinsurance against risks undertaken by the insurance company that is not more than 25% of the aggregate amount of all risks undertaken by it.

(2) Notwithstanding subsection (1), where in accordance with section 3 (2) or (3) an insurance company has obtained reinsurance against more than 75% of the aggregate amount of all risks undertaken by it in a calendar year, then, for the purpose of section 78 of the Act, the reinsurance that the insurance company may obtain through unauthorized insurers is limited to an amount of reinsurance

against risks undertaken by the insurance company that is not more than the lesser of

(a) 25% of the aggregate amount of all risks undertaken by it, or

(b) the aggregate amount of those risks undertaken by it in that calendar year against which it has not obtained reinsurance.

(3) The percentage of the aggregate amount of all risks undertaken by an insurance company against which it obtains reinsurance through unauthorized insurers in a calendar year shall be calculated by dividing the premiums paid or payable by the insurance company in that year to unauthorized insurers in respect of the reinsurance of the risks undertaken by the insurance company by the gross premium income of the insurance company in that year, and then multiplying the quotient so obtained by 100.

(4) For the purpose of subsection (3), premiums paid or payable by an insurance company are without reduction in respect of commissions, expense allowances and other consideration received or receivable by the insurance company.

G. VALUATION OF INSURANCE RESERVES

I. **NAME:** Valuation of Insurance Reserves Regulation

II. **PURPOSE:**

This regulation imposes reporting and calculation requirements on insurance companies respecting policy and claims reserves.

Authority for this regulation is provided by sections 77 and 288(3)(o) of the FIA.

III. **BACKGROUND:**

Since inadequate reserves may increase the risk of insolvency, it is important that the current reserve requirements be expanded to ensure that insurance companies maintain adequate reserves. The proposed regulation expands and updates the reserve requirements previously contained in the Insurance Act to reflect modern accounting and actuarial practices.

IV. **DISCUSSION:**

The Insurance Act presently contains limited provisions respecting reserves which must be maintained by insurance companies to cover potential claims and the return of unearned premiums. Since inadequate reserves may ultimately lead to insolvency, the proposed regulation will expand and update the reserve requirements in a manner consistent with the federal reserve provisions. These include:

- requiring a company to include policy and claims reserves in the liabilities shown in its financial statements;
- requiring a company having outstanding policies dependent on life, accident or sickness, or on a term certain to attach to its financial statements a report by an actuary (person approved by the superintendent) reporting on the policy and claims reserves shown in its financial statements; and
- requiring a general insurance company to attach to its financial statements a report setting out the particulars of the calculation of claims and policy reserves.

VALUATION OF INSURANCE RESERVES REGULATION

Interpretation

1. In this regulation

"Act" means the *Financial Institutions Act;*

"actuary" means a person who

(a) is a Fellow of the Canadian Institute of Actuaries, or

(b) although not a person described in paragraph (a), is qualified to be an actuary because of the person's training, experience or both;

"insurance company" includes

(a) a society that is deemed under section 190 of the Act to have a business authorization, and

(b) a mutual fire insurance company as defined in section 187 of the Act.

Life insurance business

2. (1) An insurance company authorized to carry on only life insurance business shall establish a reserve for all unmatured obligations under the terms of its policies dependent on life, accident or sickness or on any other contingencies or on a term certain.

(2) Subject to subsection (3), the reserve shall be calculated on the basis of a rate or rates of interest and a rate or rates of mortality, accident, sickness or other contingencies

(a) that, in the opinion of an actuary, are appropriate to the circumstances of the company and the policies in force, and

(b) that are acceptable to the superintendent.

(3) The reserve for a life insurance policy shall be calculated in accordance with the methods specified in sections 124 and 125 of the *Canadian and British Insurance Companies Act*, (Canada) as those sections read on the day this section comes into force or in accordance with any other method that produces a reserve not less, for any policy at any duration, than the reserve calculated in accordance with the methods specified in those sections as they read on that day.

General insurance business

[What about marine insurance?]

3. (1) An insurance company that is authorized to carry on one or more classes of general insurance business but is not authorized to carry on life insurance shall, in respect of its policies in force, and in respect of claims under accident and sickness policies payable in installments, establish reserves not less than the following:

(a) for non-cancellable accident and sickness policies in force and for claims under accident and sickness policies payable in installments, a reserve calculated on the basis of a rate or rates of interest and a rate or rates of mortality, accident, sickness or other contingencies that, in the opinion of an actuary, are appropriate to the circumstances of the company and the policies and claims being valued;

(b) for all other policies, a reserve equal to the unearned premiums less a deduction with respect to acquisition expenses determined by ascertaining the amount of

(i) the actual acquisition expenses incurred,

(ii) the proportion of the unearned premiums that may reasonably be considered not to be required for the payment of claims and expenses other than acquisition expenses, and

(iii) 30% of the unearned premiums,

and by considering the amount of the deduction to be equal to the least of the amounts referred to in this paragraph.

(2) For the purpose of subsection (1)(b),

(a) where a company has issued policies on the premium note system, unearned assessments levied in respect of all outstanding premium notes held by the company are considered to be unearned premiums, and

(b) unearned premiums shall be calculated pro rata as of the date of the annual statement except that, where the risk insured and the amount of insurance are not substantially uniform over the term of the policy, the unearned premiums shall be calculated in a manner that, in the opinion of an actuary, are appropriate to the terms of the policy.

Both general insurance and life insurance business

4. Sections 2 and 3 both apply to and in respect of an insurance company authorized to carry on both life insurance business and one or more classes of general insurance.

Financial statements and actuarial reports

5 (1) An insurance company shall include the reserves calculated under this regulation in the liabilities shown in its financial statement.

(2) An insurance company authorized to carry on life insurance business shall attach to its financial statement a report prepared by an actuary with respect to the reserves included in the liabilities shown in the financial statement stating

(a) that, in the opinion of the actuary,

(i) the rate or rates of interest, the rate or rates of mortality, accident, sickness or other contingencies used in calculating the reserve are appropriate to the circumstances of the company and the policies in force,

(ii) the method used to calculate the reserve produces a reserve in respect of each life insurance policy that is not less than the reserve produced by the methods described in sections 124 and 125 of the *Canadian and British Insurance Companies Act* (Canada) [as those sections read on the day section 2 comes into force], and

(iii) the reserve makes good and sufficient provision for all the unmatured obligations guaranteed under the terms of the policies in force,

(b) where, with respect to any policy the reserve is negative, the aggregate amount of those reserves,

(c) the nature of any prospective changes in dividend scales that have been taken into consideration in stating the opinions in paragraphs (a) (i) and (ii),

(d) where, with respect to any policy, the reserve calculated for that policy in accordance with section 2 (3) is less than the cash surrender value available on the date as of which the calculation is made, the aggregate amount of the deficiencies for those policies,

[(d.1) a brief summary of the training and experience that qualify the person making the report as an actuary?], and

(e) any other information required by the superintendent concerning the calculation of the reserves.

(3) An insurance company authorized to carry on one or more classes of general insurance business shall attach to its financial statement one or more of the following reports, as appropriate:

(a) a report prepared by an actuary with respect to the reserve required to be shown in its financial statement under section 3 (1) (a) stating

(i) that in the opinion of the actuary, the rate or rates of interest, the rate or rates of mortality, accident, sickness or other contingencies and the method used in calculating the reserve are appropriate to the circumstances of the company and the policies and claims being valued,

(ii) that in the opinion of the actuary, the reserve makes good and sufficient provision for all the unmatured obligations guaranteed under the terms of the policies and claims being valued,

(iii) where, with respect to any policy, the reserve is negative, the aggregate amount of those reserves, and

(iv) such other information concerning the calculation of the reserves as the superintendent may require,

(b) a report prepared by an actuary with respect to the reserve required to be shown in the financial statement under section 3 (1) (b) setting out particulars of the calculation of the reserve and stating whether or not, in the opinion of the actuary, the reserve, together with

(i) any other reserve making provision for claims and other obligations expected to arise after the date of the financial statement under policies to which the reserve pertains, and

(ii) the amounts receivable from reinsurers with respect of those policies, are at least equal to the amount that will make proper provision for all claims and other obligations expected to arise after the date of the financial statement under those policies, and to pay adjustment expenses expected to be connected therewith and expenses relating to the servicing of those policies, and

(c) a report prepared by an actuary with respect to the reserve shown in the financial statement for all claims and other obligations that have been incurred by the company prior to the date of the financial statement, including claims and obligations which arose before that date but were not reported on or before that date, setting out particulars of the calculation of the reserve and stating whether or not, in the opinion of the actuary, the reserve together with amounts receivable from reinsurers in connection with those claims and other obligations, is at least equal to the amount that will make proper provision for those claims and other obligations and to pay adjustment expenses therewith.

(4) Each of the reports required by subsection (3) shall include any other additional information concerning the calculation of the reserves required by the superintendent.

Reduction for reinsurance

6. (1) Subject to subsections (2) to (4), the reserve required under sections 2 and 3 in respect of a policy or a group of policies or a claim may be reduced where the risk under the policy or group of policies or the claim is reinsured in whole or in part with another insurer (the "reinsurer").

(2) The amount by which a reserve for any policy or group of policies or claim may be reduced under subsection (1) shall not be greater than the portion of that reserve that may reasonably be considered to apply to the portion of the risk undertaken by the reinsurer.

(3) Where the reinsurer does not have a business authorization to carry on insurance business and the reinsurer is not licensed, registered or otherwise authorized to carry on the business of insurance under the laws of a province or Canada, the reserve

(a) in respect of a policy or group of policies or claim in Canada reinsured with that reinsurer, may be reduced only to the extent that security is maintained in Canada in respect of the potential obligations of the reinsurer in an amount, of a nature and under arrangements satisfactory to the superintendent, and

(bi) in respect of any other policy or group of policies or claim reinsured with that reinsurer, may be reduced only to the extent that security is maintained in respect of the potential obligations of the reinsurer in an amount, of a nature and under arrangements satisfactory to the superintendent.

Appointment of actuary

7. Where, under this regulation an insurance company is required to include in its financial statement a report of an actuary, the directors of the insurance company shall

(a) by resolution appoint an actuary to be the actuary of the company for the purposes of this regulation, and

(b) within 14 days of the effective date thereof, file a certified copy of that resolution and of every subsequent resolution appointing an actuary with the superintendent.

CHAPTER 11

H. COMPENSATION PLANS

I. **NAME:** Compensation Plans Regulation

II. **PURPOSE:**

This regulation designates the Property and Casualty Insurance Compensation Plan.

Authority for this regulation is provided by section 66(2) of the FIA.

III. **BACKGROUND:**

Insurance companies carrying on property and casualty insurance business are currently required to maintain membership in a property and casualty insurance compensation plan. The purpose of this requirement is to ensure that in the event of an insolvency, compensation will be provided to claimants and policyholders.

This regulation continues the current practice by designating the Property and Casualty Insurance Compensation Plan as an insurance plan under section 66(2) of the FIA.

IV. **DISCUSSION:**

This regulation designates the Property and Casualty Insurance Compensation Plan administered by the Property and Casualty Insurance Compensation Corporation as the plan for which general insurers in British Columbia must be members. The regulation is similar to the present regulation made under the Insurance Act, but uses language and expressions consistent with those adopted under the FIA.

A similar regulation will be drafted in respect of a life insurance compensation plan. A life insurance compensation plan has now been implemented on a voluntary basis and British Columbia is considering, along with the other provinces and Canada, making membership in the plan mandatory for all licensed life insurers.

COMPENSATION PLANS REGULATION

Designated compensation plans

1. The Property and Casualty Insurance Compensation Plan administered by the Property and Casualty Insurance Compensation Corporation is designated as an insurance compensation plan for all classes of insurance other than the classes of insurance excluded in section 2.

Excluded classes of insurance

2. The following classes of insurance are excluded from the Property and Casualty Insurance Compensation Plan:

(a) accident and sickness insurance;
(b) aircraft insurance;
(c) automobile insurance;
(d) credit insurance;
(e) crop insurance;
(f) directors and officers insurance;
(g) employer's liability insurance;
(h) errors and omissions insurance;
(i) fidelity insurance;
(j) financial guarantee insurance;
(k) life insurance;
(l) marine insurance;
(m) mortgage insurance;
(n) personal accident insurance;
(o) reinsurance;
(p) sickness insurance;
(q) surety insurance;
(r) title insurance.

CHAPTER 11

I. DESIGNATION OF MUTUAL COMPANIES

I. **NAME:** Designation of Mutual Companies Regulation

II. **PURPOSE:**

This regulation designates the Pacific Coast Fishermen's Mutual Insurance Company as a mutual company for the purposes of the FIA.

Authority for this regulation is provided by sections 187 and 288(3)(ff) of the FIA.

III. **BACKGROUND:**

The FIA provides for the regulation of a number of entities which qualify as insurers, but are not insurance companies. One such entity is the mutual company. Although most mutuals are established under the Mutual Fire Insurance Companies Act (MFICA), there are those established by special acts. This provision ensures that one mutual, established by special act, is subject to the same FIA provisions as apply to a mutual company established under the MFICA.

IV. **DISCUSSION:**

The proposed regulation designates the Pacific Coast Fishermen's Mutual Insurance Company, established by a special act, as a mutual company and, thus, ensures that it is subject to the same FIA provisions as other mutual companies.

DESIGNATION OF MUTUAL COMPANY REGULATION

Pacific Coast Fishermen's Mutual Insurance Company

1. Pacific Coast Fishermen's Mutual Insurance Company is designated as a mutual company for the purposes of Division 4 of Part 6 of the *Financial Institutions Act*.

CHAPTER 12

A. PROVINCE DESIGNATION

I. **NAME:** Province Designation Regulation

II. PURPOSE:

This regulation designates provinces for the purpose of section 156.

Authority for this regulation is found in section 156(4) of the FIA.

III. BACKGROUND:

There are two basic approaches to the regulation of "extraprovincial trust corporations". One approach, adopted by Ontario, is the "equals approach". The equals approach requires an extraprovincial trust corporation to meet all the regulatory requirements of both Ontario and the jurisdiction of its incorporation. The other approach first adopted by New Brunswick is the "designated jurisdiction" approach. This approach enables extraprovincial trust corporations from designated jurisdictions to operate in the province after meeting certain basic requirements.

The "designated jurisdiction" approach is based on the concept that primary responsibility for ongoing regulation and administration is retained by the jurisdiction of incorporation if the jurisdiction has an adequate legislative and regulatory framework. Under this approach, regulatory effort is focussed where it is needed; that is, on extraprovincial corporations from jurisdictions which do not have adequate legislative provisions or regulatory safeguards.

The FIA rejects the "equals approach" as unnecessarily cumbersome in favour of a modified "designated jurisdiction" approach.

IV. DISCUSSION:

Division 1, Part 6 of the FIA deals with the regulation of extraprovincial corporations (both trust companies and insurance companies incorporated outside of British Columbia). Section 156(1) of the FIA specifies the provisions of the FIA which apply to all extraprovincial corporations whether from "designated" provinces or not.

These provisions include the requirement to have a business authorization, maintain a minimum capital base and comply with rules respecting the marketing of financial products.

IV. DISCUSSION: (Continued)

However, section 156(2) specifies additional provisions of the FIA relating to adequate capital, investment and lending rules and related party rules which apply to extraprovincial trust corporations that are not from a province designated pursuant to section 156(4). In designating a province, the Lieutenant Governor in Council will consider such factors as whether the province has similar regulatory legislation and adequate administrative procedures. The draft regulation designates all provinces except for Prince Edward Island for the purpose of section 156.

It should be noted that designating a province under this regulation does not mean that British Columbia will abdicate its authority to regulate extraprovincial trust corporations incorporated in these provinces. British Columbia retains regulatory authority over these extraprovincial corporations and will enforce the regulatory requirements of the extraprovincial corporation's jurisdiction of incorporation.

PROVINCE DESIGNATION REGULATION

1. The prescribed provinces for the purpose of section 156 (4) of the *Financial Institutions Act* are: Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia and Newfoundland.

CHAPTER 13

A. INACTIVE DEPOSITS

I. **NAME:** Inactive Deposit Regulation

II. PURPOSE:

This regulation prescribes interest rates and a time period required to give effect to section 85 of the Act.

Authority for this regulation is provided by sections 85 and 288(3)(p) of the FIA.

III. BACKGROUND:

Section 85 specifies procedures which credit unions and trust companies must follow with respect to inactive deposits. A deposit is considered to be an "inactive deposit" when no transactions or acknowledgments of statements have been made by the depositor for a period of ten years. When the amount of an inactive deposit plus accrued income is less than $100, it may be declared as income by the credit union or trust company. When the amount of an inactive deposit plus accrued income is $100 or more, it must be paid to the Minister of Finance and Corporate Relations.

Inactive deposits declared as income or paid to the minister may be still be claimed by the party to whom they are owed. If the original deposit was interest bearing, interest is to be paid on the amount declared as income or paid to the minister. Interest is to be calculated up to a five-year period in the case of amounts declared as income, and for a 20-year period in the case of amounts paid to the minister.

IV. DISCUSSION:

Sections 85(5)(b)(ii) and 85(6)(b)(ii) of the FIA provide authority for interest rates to be prescribed with respect to payments made for inactive deposits. The interest rate prescribed in the draft regulation is the bank rate set by the Bank of Canada, less 5 per cent.

Section 85(7) requires that a time period be prescribed during which credit unions and trust companies must keep records related to inactive deposits paid to the minister. The period prescribed in the draft regulation is seven years.

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. , Approved and Ordered

Lieutenant Governor

DRAFT

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the following Inactive Deposit Regulation is made:

INACTIVE DEPOSIT REGULATION

1. (1) The interest rate to be prescribed for the purpose of section 85 (5) (b) (ii) and (6) (b) (ii) of the Act shall be during each successive 6 month period, beginning from the date the inactive deposit

(a) referred to in section 85 (5) (b) (ii) was paid to the Minister of Finance and Corporate Relations, or

(b) referred to in section 85 (6) (b) (ii) was declared as income by the credit union or trust company,

the bank rate set by the Bank of Canada in effect on the 15th day of the month immediately preceding that 6 month period less 5 percentage points, but shall not for any period be less than 3%.

(2) For the purpose of calculating interest owed pursuant to section 85 of the Act, interest shall be compounded semi annually.

(3) For the purpose of section 85 (7), the prescribed time period is 7 years.

Minister of Finance and Corporate Relations

Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- Financial Instituions Act, section

Other (specify):-

February 5, 1990 /90/11/mb 25.

CHAPTER 14

FORMS

FORM 1 - Application for Incorporation

FORM 2 - Personal Information Return

FORM 3 - Application for Business Authorization - Financial Institutions

FORM 4 - Application for Business Authorization - Extraprovincial Corporations

FORM 5 - Application for Business Authorization - Societies

FORM 6 - Application for Annual Permit - Reciprocal Exchanges

FORM 7 - Application for Consent to Amalgamate - Financial Institutions

FORM 8 - Notice of Amalgamation - Extraprovincial Corporations

FORM 9 - Application for Continuation in the Province

Province of British Columbia

Ministry of Finance
and Corporate Relations

FINANCIAL INSTITUTIONS COMMISSION

APPLICATION FOR INCORPORATION
for Trust Companies, Insurance Companies, and Credit Unions

INSTRUCTIONS

1. This form is the form required pursuant to sections 12(1)(b) of the **FINANCIAL INSTITUTIONS ACT** and section 6(1)(b) of the **CREDIT UNION INCORPORATION ACT**.
2. This form **must** be typewritten or printed.
3. All applicable information **must** be provided. Attach additional typed / printed sheets as necessary.
4. Upon completion, please forward this form together with five photocopies of the form and all attachments to the Financial Institutions Commission, 1900, 1050 West Pender Street, Vancouver, British Columbia, V6E 3S7
5. All material requested must be submitted at the same time.

A. APPLICANT DETAILS

1. APPLICATION FOR INCORPORATION OF:

☐ Trust Company ☐ Insurance Company ☐ Credit Union

2. NAME OF COMPANY / CREDIT UNION: ______________________________

____

3. HEAD OFFICE ADDRESS: ______________________________

____

4. TELEPHONE NUMBER: ____________________ 5. FAX NUMBER: ____________________

6. (i) CONTACT PERSON: ______________________________

(ii) TITLE: ______________________________

B. INCORPORATION FEES

Attach the incorporation fee, in the amount set out in the attached Schedule "A", made payable to the Minister of Finance and Corporate Relations.

C. PLAN

Attach a business plan for the proposed company / credit union. It must contain the following information:

I. Table of contents
- Section titles and page numbers

II. Executive Summary
- Name of Corporation
- Contact person
- Nature of business
- Products and services offered to public
- Source of financing
- Highlights of business plan

III. Business Concept

A. Corporate Structure
- legal form
- shareholders
- directors and officers
- proposed organizational chart
- duties and responsibilities of key personnel

B. Description of Proposed Business
- preliminary activities
- products or services specifying those activities that business authorization is not required
- target market
- business location and premises

C. Business Goals and Assumptions
- pre-business authorization
- proposed date of business authorization
- post-business authorization
- assumptions underlying the plan

IV. Financial Plan

A. Financial Statements

B. Financial Forecasts
- opening balance sheet
- year one to five - pro-forma balance sheet and assumptions
- year one to five - pro-forma income statements and assumptions
- year one - cash flow forecasts and assumptions

C. Financing and Capitalization
- share issuance
- term loans applied for
- debentures
- subordinate debt
- dividend policy

D. Actuarial Report (if insurance company)

D. MEMORANDUM / CONSTITUTION

Attach the proposed memorandum / constitution for the company / credit union .

E. ARTICLES / RULES

Attach the proposed articles / rules for the company / credit union.

F. NOTICE OF OFFICE

Provide the following:

Registered Office Address: ____________________

Records Office Address: ____________________

Branch Address(es): ____________________

G. PRELIMINARY ACTIVITIES

List the preliminary activities the company / credit union will be undertaking before obtaining a business authorization. (Attach separate sheet if additional space is required.)

H. SUBSCRIBERS, DIRECTORS AND SENIOR OFFICERS

Attach a Personal Information Return for each subscriber who would own or control 10% or more of the voting shares in the company / credit union and for each proposed director and senior officer.

CERTIFICATION

I, the undersigned, hereby certify that the foregoing statements are true, correct and complete to the best of my knowledge, information and belief and hereby undertake to notify the Financial Institutions Commission immediately in writing of any material change therein.

SIGNATURE	TITLE	DATE SIGNED

Province of British Columbia Ministry of Finance and Corporate Relations

FINANCIAL INSTITUTIONS COMMISSION

PERSONAL INFORMATION RETURN
for Directors, Senior Officers, Subscribers and Shareholders

INSTRUCTIONS

1. This form is the form required pursuant to section 18 (2)(e), 29(2)(c) and 103 of the **FINANCIAL INSTITUTIONS ACT**, and section11(2)(e) of the **CREDIT UNION INCORPORATION ACT.**
2. This form **must** be typewritten or printed.
3. All applicable information **must** be provided. Attach additional typed / printed sheets as necessary.
4. Upon completion, please forward this form together with five photocopies of the form and all attachments to the Financial Institutions Commission, 1900, 1050 West Pender Street, Vancouver, British Columbia, V6E 3S7
5. All material requested must be submitted at the same time.

A. GENERAL INFORMATION

1. Personal Information for a:

☐ Director ☐ Senior Officer ☐ Subscriber ☐ Shareholder

2. Name of Financial Institution: ____________________

3. Name of Individual: Mr. / Miss / Mrs. / Ms. ____________________

4. Maiden / Previous Name: ____________________

5. Residential Address: ____________________

____

6. Telephone Number: ____________________ 7. Social Insurance No. : ____________________

8. Date of Birth: ____________________ 9. Place of Birth: ____________________

10. Citizenship: ____________________

11. Driver's Licence No.: ____________________ Issued by: (Prov. / Territory) ____________________

B. EDUCATION

1. List all educational institutions attended

	NAME OF SCHOOL	TYPE OF DEGREE OR DIPLOMA	DATE OF GRADUATION
High School or Secondary			
Post- Secondary, College or University			
Professional Designations			

List other professional development courses completed:

____

____

____

____

C EMPLOYMENT

1. Present Position or Occupation: ______________________

2. Start date Present Employment: ______________________

3. (i) Name of Present Employer: ______________________

(ii) Address: ______________________

(iii) Telephone Number: ______________________

List previous employment:

EMPLOYER	POSITION	DATES		REASON FOR LEAVING
		FROM Y M	TO Y M	

D. OTHER INFORMATION

1. List memberships in professional societies or associations:

____

2. List any other Directorates held:

____

3. List any companies in which more than 10% of the voting shares are owned or controlled:

____

____

4. List any convictions under the Criminal Code of Canada or any provincial / territorial legislation:

____

5.List any civil judgments made or disciplinary actions taken by professional organizations or self-regulatory bodies:

____

6. Under the law of any province, territory, state or country have you ever been petitioned into bankruptcy or made a voluntary assignment in bankruptcy?

☐ YES ☐ NO

CERTIFICATION

I, the undersigned, hereby certify that the foregoing statements are true, correct and complete to the best of my knowlege, information and belief and hereby undertake to notify the Financial Institutions Commission immediately in writing of any material change therein.

I, the undersigned, hereby authorize the Financial Institutions Commission and any person acting on its authority to make any inquiries it deems necessary of any other person concerning the information contained herein and otherwise , all in the absolute discretion of the Financial Institutions Commission.

I understand that the Financial Institutions Commission may also request additional information from me to enable evaluation of this Personal Information Return.

I fully understand my duties and obligations under the COMPANY ACT, FINANCIAL INSTITUTIONS ACT and CREDIT UNION INCORPORATION ACT.

SIGNATURE	TITLE	DATE SIGNED Y M D

Province of British Columbia
Ministry of Finance and Corporate Relations
FINANCIAL INSTITUTIONS COMMISSION

APPLICATION FOR BUSINESS AUTHORIZATION
for Trust Companies, Insurance Companies, and Credit Unions

INSTRUCTIONS

1. This form is the form required pursuant to section 61(1), (4), (5), (6), (7), and (8) of the FINANCIAL INSTITUTIONS ACT.
2. This form must be typewritten or printed.
3. All applicable information must be provided. Attach additional typed / printed sheets as necessary.
4. Upon completion, please forward this form together with five photocopies of the form and all attachments to the Financial Institutions Commission, 1900, 1050 West Pender Street, Vancouver, British Columbia, V6E 3S7
5. All material requested must be submitted at the same time.

A. APPLICANT DETAILS

1. APPLICATION FOR BUSINESS AUTHORIZATION FOR:

☐ Deposit Business ☐ Trust Business ☐ Deposit and Trust Business ☐ Insurance Business

2. NAME OF COMPANY/ CREDIT UNION : ____________________

3. HEAD OFFICE ADDRESS: ____________________

4. TELEPHONE NUMBER: ____________ 5. FAX NUMBER: ____________

6. INCORPORATION NUMBER: ____________________

7. (i) CONTACT PERSON: ____________________

(ii) TITLE: ____________________

B. BUSINESS AUTHORIZATION FEES

Attach the business authorization fee, in the amount set out in the attached Schedule "A", made payable to the Minister of Finance and Corporate Relations .

C. DEPOSIT BUSINESS *FOR DEPOSIT BUSINESS OR DEPOSIT AND TRUST BUSINESS APPLICANTS ONLY.*

In the case of a trust company, attach a letter of 'no objection' from the Canada Deposit Insurance Corporation, or an approved deposit insurer.

D. INSURANCE BUSINESS *FOR INSURANCE BUSINESS APPLICANTS ONLY*

1. Business Authorization to be confined to:

☐ LIFE INSURANCE BUSINESS
☐ GENERAL INSURANCE BUSINESS
☐ LIFE AND GENERAL INSURANCE BUSINESS
☐ SPECIFIC CLASS OR CLASSES OF INSURANCE:

2. Name of Actuary: ____________________

3. Address: ____________________

4. Telephone Number: ____________________

5. Attach a letter of no objection or evidence of membership from an approved insurance compensation plan in respect to classes of insurance permitted under business authorization.

E. FINANCIAL STATEMENTS

1. Name of Auditor: ______________________________

2. Address: ______________________________

3. Telephone: ______________________________

4. Attach interim financial statements ending the month preceding this application including a balance sheet and income statement.

F. COMMITTEES

1. List the members of audit committee ______________________________

2. List members of investment and loan committee ______________________________

3. List members of conduct review committee ______________________________

4. Attach a copy of the written investment and lending policies and conduct and review policies and procedures.

G. PLAN

Detail and explain any material changes to the business plan that was submitted with the Application For Incorporation.

H. OTHER BUSINESS

List any other financial or related services that the financial institution will be carrying on that does not constitute business for which a business authorization is required.

CERTIFICATION

I, the undersigned, hereby certify that the foregoing statements are true, correct and complete to the best of my knowledge, information and belief and hereby undertake to notify the Financial Institutions Commission immediately in writing of any material change therein.

SIGNATURE	TITLE	DATE SIGNED

Province of British Columbia Ministry of Finance and Corporate Relations

FINANCIAL INSTITUTIONS COMMISSION

APPLICATION FOR BUSINESS AUTHORIZATION
for Extraprovincial Corporations

INSTRUCTIONS

1. This form is the form required pursuant to section 159(1) of the **FINANCIAL INSTITUTIONS ACT.**
2. This form **must** be typewritten or printed.
3. All applicable information **must** be provided. Attach additional typed / printed sheets as necessary.
4. Upon completion, please forward this form together with five photocopies of the form and all attachments to the Financial Institutions Commission, 1900, 1050 West Pender Street, Vancouver, British Columbia, V6E 3S7
5. All material requested must be submitted at the same time.

A. APPLICANT DETAILS

1. APPLICATION FOR BUSINESS AUTHORIZATION FOR:

☐ Deposit Business ☐ Trust Business ☐ Deposit and Trust Business ☐ Insurance Business

2. NAME OF EXTRAPROVINCIAL CORPORATION :

3. HEAD OFFICE ADDRESS:

4. TELEPHONE NUMBER: 5. FAX NUMBER:

6. INCORPORATION NUMBER:

7. JURISDICTION OF INCORPORATION :

8. (i) CONTACT PERSON:

(ii) TITLE:

B. BUSINESS AUTHORIZATION FEES

Attach the business authorization fees, in the amount set out in the attached Schedule "A", made payable to the Minister of Finance and Corporate Relations.

C. PLAN

Attach a business plan for the extraprovincial corporation. It must contain the following information.

I. Table of contents
- Section titles and page numbers

II. Executive Summary
- Name of Corporation
- Contact person
- Nature of business
- Products and services offered to public
- Source of financing
- Highlights of business plan

III. Business Concept

A. Corporate Structure
- legal form
- shareholders
- directors and officers
- proposed organizational chart
- duties and responsibilities of key personnel

B. Description of Proposed Business
- preliminary activities
- products or services; and indicate those activities that business authorization is not required
- target market
- business location and premises

C. Business Goals and Assumptions
- pre-business authorization
- proposed date of business authorization
- post-business authorization
- assumptions underlying the plan

IV. Financial Plan

A. Financial Statements

B. Financial Forecasts
- opening balance sheet
- year one to five - pro-forma balance sheet and assumptions
- year one to five - pro-forma income statements and assumptions
- year one - cash flow forecasts and assumptions

C. Financing and Capitalization
- share issuance
- term loans applied for
- debentures
- subordinate debt
- dividend policy

D. Actuarial Report (if extraprovincial insurance corporation)

D. MEMORANDUM / CONSTITUTION

Attach the memorandum / constitution for the extraprovincial corporation.

E. ARTICLES / BY-LAWS

Attach the articles / by-laws for the extraprovincial corporation.

F. NOTICE OF OFFICE IN BRITISH COLUMBIA

Provide the following:

Registered Office Address: ______________________

Records Office Address: ______________________

Branch Address(es): ______________________

____

____

G. SHAREHOLDERS, DIRECTORS AND SENIOR OFFICERS

Attach Personal Information Return for each shareholder who owns or controls 10% or more of the voting shares in the extraprovincial corporation and for each proposed director and senior officer.

H. COMMITTEES

1. Attach a list of directors' committees and their members (i.e. audit committee)
2. Attach a copy of all written investment and lending policies and conduct review policies and procedures.

I. DEPOSIT BUSINESS *FOR DEPOSIT BUSINESS OR DEPOSIT AND TRUST BUSINESS APPLICANTS ONLY.*

Attach a letter of 'no objection' from the Canada Deposit Insurance Corporation or an approved deposit insurer.

J . INSURANCE BUSINESS *FOR INSURANCE BUSINESS APPLICANTS ONLY*

1.Business Authorization to be confined to:
☐ LIFE INSURANCE BUSINESS
☐ GENERAL INSURANCE BUSINESS
☐ LIFE AND GENERAL INSURANCE BUSINESS
☐ SPECIFIC CLASS OR CLASSES OF INSURANCE:

2. Name of Actuary: ______________________

3. Address: ______________________

4.Telephone: ______________________

5. Attach a letter of 'no objection' or evidence of membership from an approved insurance compensation plan in respect to classes of insurance permitted under business authorization.

K. FINANCIAL STATEMENTS

1. Name of Auditor: ______________________________

2. Address: ______________________________

3. Telephone: ______________________________

4. Attach interim financial statements ending the month preceding this application including a balance sheet and income statement and the latest audited financial statements.

L. OTHER BUSINESS

List any other financial or related services that the financial institution will be carrying on that does not constitute business for which a business authorization is required.

____

____

M. ORGANIZATIONAL CHART

Attach a corporate organizational chart including subsidiaries and affiliates. (show the percentage of voting shares owned).

CERTIFICATION

I, the undersigned, hereby certify that the foregoing statements are true, correct and complete to the best of my knowledge, information and belief and hereby undertake to notify the Financial Instituions Commission immediately in writing of any material change therein.

SIGNATURE	TITLE	DATE SIGNED

Province of British Columbia

Ministry of Finance
and Corporate Relations

FINANCIAL INSTITUTIONS COMMISSION

APPLICATION FOR BUSINESS AUTHORIZATION

for Societies named in an Order of the Superintendent of Financial Institutions

INSTRUCTIONS

1. This form is the form required pursuant to Section 61(3) of the FINANCIAL INSTITUTIONS ACT.
2. This form must be typewritten or printed.
3. All applicable information must be provided. Attach additional typed / printed sheets as necessary.
4. Upon completion, please forward this form together with five photocopies of the form and all attachments to the Financial Institutions Commission, 1900, 1050 West Pender Street, Vancouver, British Columbia, V6E 3S7
5. All material requested must be submitted at the same time.

A. APPLICANT DETAILS

1. NAME OF SOCIETY :

2. HEAD OFFICE ADDRESS:

3. TELEPHONE NUMBER: 4. FAX NUMBER:

5. INCORPORATION NUMBER:

6. JURISDICTION OF INCORPORATION:

7. (i) CONTACT PERSON:

(ii) TITLE:

B. BUSINESS AUTHORIZATION FEES

Attach the business authorization fees in the amount set out in the attached Schedule "A", made payable to the Minister of Finance and Corporate Relations .

C. INSURANCE BUSINESS

1. Business Authorization to be confined to:

☐ LIFE INSURANCE BUSINESS ☐ GENERAL INSURANCE BUSINESS

☐ LIFE AND GENERAL INSURANCE BUSINESS ☐ SPECIFIC CLASS OR CLASSES OF INSURANCE:

2. Name of Actuary:

3. Address:

4. Telephone Number:

5. Attach a letter of 'no objection' or evidence of membership from an approved insurance compensation plan in respect to classes of insurance permitted under business authorization.

FIN 935 Rev. 90 / 1 / 22

D FINANCIAL STATEMENTS

1. Name of Auditor: ____________________

2. Address: ____________________

3. Telephone: ____________________

4. Attach interim financial statements ending the month preceding this application including a balance sheet and income statement.

5. Attach the latest audited financial statements.

E. COMMITTEES

1. List the members of audit committee ____________________

____

2. List members of investment and loan committee ____________________

____

3. List members of conduct review committee ____________________

____

4. Attach a copy of the written investment and lending policies and conduct and review policies and procedures.

F. OTHER BUSINESS

List any other financial or related services that the society has been carrying on that does not constitute business for which a business authorization is required.

____

____

CERTIFICATION

I, the undersigned, hereby certify that the foregoing statements are true, correct and complete to the best of my knowledge, information and belief and hereby undertake to notify the Financial Institutions Commission immediately in writing of any material change therein.

SIGNATURE	TITLE	DATE SIGNED

Province of
British Columbia

Ministry of Finance
and Corporate Relations

FINANCIAL INSTITUTIONS COMMISSION

APPLICATION FOR ANNUAL PERMIT

For Reciprocal Exchanges

INSTRUCTIONS

1. This form is the form required pursuant to Section 186(1)(a) of the **FINANCIAL INSTITUTIONS ACT.**
2. This form **must** be typewritten or printed.
3. All applicable information **must** be provided. Attach additional typed / printed sheets as necessary.
4. Upon completion, please forward this form together with five photocopies of the form and all attachments to the Financial Institutions Commission, 1900, 1050 West Pender Street, Vancouver, British Columbia, V6E 3S7.
5. All material requested must be submitted at the same time.

A. APPLICANT DETAILS

1. APPLICATION FOR:

☐ Initial Permit ☐ Renewal of permit

2. NAME OF RECIPROCAL EXCHANGE: ______________________________

____

3. HEAD OFFICE ADDRESS: ______________________________

____

4. TELEPHONE NUMBER: ______________ 5. FAX NUMBER: ______________

6. (i) CONTACT PERSON: ______________________________

(ii) TITLE: ______________________________

B. ANNUAL PERMIT FEES

Attach the annual permit fees in the amount set out in the attached Schedule "A", made payable to the Minister of Finance and Corporate Relations.

C. MEMBERS OF RECIPROCAL EXCHANGE

1. Attach any agreement(s) entered into by members.
2. Attach forms of all policies and endorsements.
3. List members of the reciprocal exchange:

NAME	ADDRESS	TELEPHONE

FIN 933 Rev. 90 / 1 / 22

D. FINANCIAL STATEMENTS - *FOR RENEWALS ONLY*

1. Gross Premiums Received for the year ending December 31, 19___, ($000): ______________________________
2. Reinsurance Assumed for the year ending December 31, 19___, ($ 000): ______________________________
3. Reinsurance Ceded for the year ending December 31, 19___, ($ 000): ______________________________
4. Net Premiums Received for the year ending December 31, 19___, ($ 000): ______________________________
5. Name of Auditor: ______________________________
6. Address: ______________________________

   ____
7. Telephone Number: ______________________________
8. Attach latest financial statements including a balance sheet and income statement.

E. ACTUARIAL STATEMENTS

1. Name of Actuary: ______________________________
2. Address: ______________________________
3. Telephone Number: ______________________________
4. Attach the latest actuarial statement.

CERTIFICATION

I, the undersigned, hereby certify that the foregoing statements are true, correct and complete to the best of my knowledge, information and belief and hereby undertake to notify the Financial Institutions Commission immediately in writing of any material change therein.

SIGNATURE SIGNED	TITLE	DATE Y M D

Province of British Columbia Ministry of Finance and Corporate Relations

FINANCIAL INSTITUTIONS COMMISSION

APPLICATION FOR CONSENT TO AMALGAMATE

for Trust Companies,
Insurance Companies and Credit Unions

INSTRUCTIONS

1. This form is the form required pursuant to section 29(2)(a) of the **FINANCIAL INSTITUTIONS ACT** and section 20(2) of the **CREDIT UNION INCORPORATION ACT**.
2. This form **must** be typewritten or printed.
3. All applicable information **must** be provided. Attach additional typed / printed sheets as necessary.
4. Upon completion, please forward this form together with five photocopies of the form and all attachments to the Financial Institutions Commission, 1900, 1050 West Pender Street, Vancouver, British Columbia, V6E 3S7
5. All material requested must be submitted at the same time.

A. APPLICANT DETAILS

1. Number of Companies / Credit Unions applying to amalgamate:

2. Provide the following information for each Company / Credit Union *applying to amalgamate*:

NAME OF AMALGAMATING COMPANY / CREDIT UNION :

HEAD OFFICE ADDRESS:

TELEPHONE NUMBER: FAX NUMBER:

INCORPORATION NUMBER: JURISDICTION OF INCORPORATION:

TYPE OF BUSINESS AUTHORIZATION:

CONTACT PERSON NAME /TITLE:

NAME OF AMALGAMATING COMPANY / CREDIT UNION :

HEAD OFFICE ADDRESS:

TELEPHONE NUMBER: FAX NUMBER:

INCORPORATION NUMBER: JURISDICTION OF INCORPORATION:

TYPE OF BUSINESS AUTHORIZATION:

CONTACT PERSON NAME /TITLE:

NAME OF AMALGAMATING COMPANY / CREDIT UNION :

HEAD OFFICE ADDRESS:

TELEPHONE NUMBER: FAX NUMBER:

INCORPORATION NUMBER: JURISDICTION OF INCORPORATION:

TYPE OF BUSINESS AUTHORIZATION:

CONTACT PERSON NAME /TITLE:

FIN 934 Rev. 90 / 1 / 22

NAME OF AMALGAMATING COMPANY / CREDIT UNION : ______________________________

HEAD OFFICE ADDRESS: ______________________________

TELEPHONE NUMBER: ______________ FAX NUMBER: ______________

INCORPORATION NUMBER: ______________ JURISDICTION OF INCORPORATION: ______________

TYPE OF BUSINESS AUTHORIZATION: ______________________________

CONTACT PERSON NAME / TITLE: ______________________________

If more than four companies / credit unions are applying to amalgamate, please provide details as listed above on a separate sheet.

B. PROPOSED AMALGAMATED COMPANY / CREDIT UNION :

NAME OF PROPOSED AMALGAMATED COMPANY / CREDIT UNION : ______________________________

HEAD OFFICE ADDRESS: ______________________________

TELEPHONE NUMBER: ______________ FAX NUMBER: ______________

AMALGAMATION INCORPORATION NUMBER: ______________ JURISDICTION OF AMALGAMATION : ______________

TYPE OF BUSINESS AUTHORIZATION: ______________________________

CONTACT PERSON NAME / TITLE: ______________________________

C. AMALGAMATION FEE

Attach the amalgamation fees in the amount set out in the attached Schedule "A", made payable to the Minister of Finance and Corporate Relations.

D. PLAN

Attach a business plan for the proposed amalgamated company / credit union. It must contain the following information.

I. Table of contents
- Section titles and page numbers

II. Executive Summary
- Name of Corporation
- Contact person
- Nature of business
- Products and services offered to public
- Source of financing
- Highlights of business plan

III. Business Concept

A. Corporate Structure
- legal form
- shareholders
- directors and officers
- proposed organizational chart
- duties and responsibilities of key personnel

B. Description of Proposed Business
- preliminary activities
- products or services specifying those activities that business authorization is not required
- target market
- business location and premises

C. Business Goals and assumptions
- pre-business authorization
- proposed date of business authorization
- post-business authorization
- process for measuring results
- assumptions underlying the plan

IV. Financial Plan

A. Financial Statements

B. Financial Forecasts
- opening balance sheet
- year one to five - pro-forma balance sheet and assumptions
- year one to five - pro-forma income statements and assumptions
- year one - cash flow forecasts and assumptions

C. Financing and Capitalization
- share issuance
- term loans applied for
- debentures
- subordinate debt
- dividend policy

D. Actuarial Report (If insurance company)

E. MEMORANDUM / CONSTITUTION

Attach the proposed memorandum / constitution for amalgamated Company / Credit Union applying to amalgamate.

F. ARTICLES / BY-LAWS / RULES

Attach the proposed articles / by-laws / rules for the amalgamated Company / Credit Union / Society.

G. NOTICE OF OFFICE IN BRITISH COLUMBIA

Provide the following:

Registered Office Address:

Records Office Address:

Branch Address(es):

H. SHAREHOLDERS, DIRECTORS AND SENIOR OFFICERS

Attach a Personal Information Return for each shareholder who owns or controls 10% or more of the voting shares in the proposed amalgamated company / credit union and for each proposed director and senior officer.

I. FINANCIAL STATEMENTS

1. Name of Auditor:
2. Address:
3. Telephone:
4. Attach interim financial statements ending the month preceding this application including a balance sheet and income statement for each company / credit union applying to amalgamate.
5. Attach latest audited financial statements for each company / credit union without a business authorization.

J. AMALGAMATION AGREEMENTS

Attach the full particulars of the terms upon which the amalgamation is to take place, together with copies of every agreement relating to the amalgamation.

K. JURISDICTION OF INCORPORATION'S CONSENT

Attach the written consent to amalgamation from the appropriate official of the extraprovincial corporation's primary jurisdiction.

L. PRELIMINARY ACTIVITIES

List the preliminary activities the proposed new company / credit union will be undertaking before obtaining a business authorization.

CERTIFICATION

I, the undersigned, hereby certify that the foregoing statements are true, correct and complete to the best of my knowledge, information and belief and hereby undertake to notify the Financial Instituions Commission immediately in writing of any material change therein.

SIGNATURE	TITLE	DATE SIGNED

Province of British Columbia Ministry of Finance and Corporate Relations

FINANCIAL INSTITUTIONS COMMISSION

NOTICE OF AMALGAMATION

for Extraprovincial Corporations

INSTRUCTIONS

1. This form is the form required pursuant to sections 165 (1)(a) of the **FINANCIAL INSTITUTIONS ACT.**
2. This form **must** be typewritten or printed.
3. All applicable information **must** be provided. Attach additional typed / printed sheets as necessary.
4. Upon completion, please forward this form together with five photocopies of the form and all attachments to the Financial Institutions Commission, 1900, 1050 West Pender Street, Vancouver, British Columbia, V6E 3S7
5. All material requested must be submitted at the same time.

A. DETAILS OF EXTRAPROVINCIAL AMALGAMATION

1. Number of amalgamating extraprovincial corporations: ______________________

2. Provide the following information for each amalgamating extraprovincial corporation.

NAME OF AMALGAMATING EXTRAPROVINCIAL CORPORATION: ______________________
HEAD OFFICE ADDRESS: ______________________
TELEPHONE NUMBER: ______________ FAX NUMBER: ______________
INCORPORATION NUMBER: ______________ JURISDICTION OF INCORPORATION: ______________
TYPE OF BUSINESS AUTHORIZATION: ______________________
CONTACT PERSON NAME /TITLE: ______________________

NAME OF AMALGAMATING EXTRAPROVINCIAL CORPORATION: ______________________
HEAD OFFICE ADDRESS: ______________________
TELEPHONE NUMBER: ______________ FAX NUMBER: ______________
INCORPORATION NUMBER: ______________ JURISDICTION OF INCORPORATION: ______________
TYPE OF BUSINESS AUTHORIZATION: ______________________
CONTACT PERSON NAME /TITLE: ______________________

NAME OF AMALGAMATING EXTRAPROVINCIAL CORPORATION: ______________________
HEAD OFFICE ADDRESS: ______________________
TELEPHONE NUMBER: ______________ FAX NUMBER: ______________
INCORPORATION NUMBER: ______________ JURISDICTION OF INCORPORATION: ______________
TYPE OF BUSINESS AUTHORIZATION: ______________________
CONTACT PERSON NAME /TITLE: ______________________

NAME OF AMALGAMATING EXTRAPROVINCIAL CORPORATION: ______

HEAD OFFICE ADDRESS: ______

TELEPHONE NUMBER: ______ FAX NUMBER: ______

INCORPORATION NUMBER: ______ JURISDICTION OF INCORPORATION: ______

TYPE OF BUSINESS AUTHORIZATION: ______

CONTACT PERSON NAME /TITLE: ______

If more than four Extraprovincial Corporations are amalgamating, please provide details as listed above on a separate sheet.

B. PROPOSED AMALGAMATED EXTRAPROVINCIAL CORPORATION:

NAME OF PROPOSED AMALGAMATED EXTRAPROVINCIAL CORPORATION: ______

HEAD OFFICE ADDRESS: ______

TELEPHONE NUMBER: ______ FAX NUMBER: ______

AMALGAMATION INCORPORATION NUMBER: ______ AMALGAMATION JURISDICTION: ______

TYPE OF BUSINESS AUTHORIZATION: ______

CONTACT PERSON NAME /TITLE: ______

C. AMALGAMATION FEES

Attach the amalgamation fees in the amount set out in the attached Schedule "A", made payable to the Minister of Finance and Corporate Relations.

D. MEMORANDUM / CONSTITUTION

Attach the proposed memorandum / constitution for the proposed amalgamated extraprovincial corporation.

E. ARTICLES / BY-LAWS / RULES

Attach the proposed articles / by-laws / rules for the proposed amalgamated extraprovincial corporation.

F. NOTICE OF OFFICES IN BRITISH COLUMBIA

Provide the following:

Registered Office Address: ______

Records Office Address: ______

Branch Address(es): ______

______

G. SHAREHOLDERS, DIRECTORS AND SENIOR OFFICERS

Attach a completed Personal Information Return for each shareholder who owns or controls 10% or more of the voting shares in the proposed new extraprovincial corporation and for each proposed director and senior officer.

H. FINANCIAL STATEMENTS

1. Name of Auditor: ______________________________

2. Address: ______________________________

3. Telephone: ______________________________

4. Attach interim financial statements ending the month preceding this application including a balance sheet and income statement for each extraprovincial corporation applying to amalgamate.

5. Attach latest audited financial statements for each amalgamating extraprovincial corporation without business authorization.

I. AMALGAMATION AGREEMENTS

Attach the full particulars of the terms upon which the amalgamation is to take place, together with copies of every agreement relating to the amalgamation.

J. JURISDICTION OF INCORPORATION'S CONSENT

Attach the written consent to amalgamation from the appropriate official of the extraprovincial corporation's primary jurisdiction.

CERTIFICATION

I, the undersigned, hereby certify that the foregoing statements are true, correct and complete to the best of my knowledge, information and belief and I hereby undertake to notify the Financial Institutions Commission immediately in writing of any material change therein.

SIGNATURE	TITLE	DATE SIGNED

Province of
British Columbia

Ministry of Finance
and Corporate Relations

FINANCIAL INSTITUTIONS COMMISSION

APPLICATION FOR CONTINUATION IN THE PROVINCE

For Extraprovincial Corporations

INSTRUCTIONS

1. This form is the form required pursuant to sections 29(2)(a) of the FINANCIAL INSTITUTIONS ACT.
2. This form **must** be typewritten or printed.
3. All applicable information **must** be provided. Attach additional typed / printed sheets as necessary.
4. Upon completion, please forward this form together with five photocopies of the form and all attachments to the Financial Institutions Commission, 1900, 1050 West Pender Street, Vancouver, British Columbia, V6E 3S7
5. All material requested must be submitted at the same time.

A. APPLICANT DETAILS

1. APPLICATION TO BE CONTINUED AS A:

☐ Trust Company ☐ Insurance Company

2. NAME OF COMPANY: ____________________

____

3. HEAD OFFICE ADDRESS: ____________________

____

4. TELEPHONE NUMBER: ____________________ 5. FAX NUMBER: ____________________

6. INCORPORATION NUMBER: ____________________

7. JURISDICTION OF INCORPORATION: ____________________

6. (i) CONTACT PERSON: ____________________

(ii) TITLE: ____________________

B. CONTINUATION FEES

Attach the incontinuation fees in the amount set out in the attached Schedule "A", made payable to the Minister of Finance and Corporate Relations.

C. PLAN

Attach a business plan for the proposed company. It must contain the following information:

I. Table of contents
    - Section titles and page numbers

II. Executive Summary
    - Name of Corporation
    - Contact person
    - Nature of business
    - Products and services offered to public
    - Source of financing
    - Highlights of business plan

III. Business Concept

A. Corporate Structure
    - legal form
    - shareholders
    - directors and officers
    - proposed organizational chart
    - duties and responsibilities of key personnel

B. Description of Proposed Business
    - preliminary activities
    - products or services specifying those activities that business authorization is not required
    - target market
    - business location and premise

C. Business Goals and Assumptions
    - pre-business authorization
    - proposed date of business authorization
    - post-business authorization
    - assumptions underlying the plan

IV. Financial Plan

A. Financial Statements

B. Financial Forecasts
    - opening balance sheet
    - year one to five - pro-forma balance sheet and assumptions
    - year one to five - pro-forma income statements and assumptions
    - year one - cash flow forecasts and assumptions

C. Financing and Capitalization
    - share issuance
    - term loans applied for
    - debentures
    - subordinate debt
    - dividend policy

D. Actuarial Report (If insurance company)

D. MEMORANDUM / CONSTITUTION

Attach the proposed memorandum / constitution for the company.

E. ARTICLES / RULES

Attach the proposed articles / rules for the company.

F. NOTICE OF OFFICE

Provide the following:

Registered Office Address: ______________________________

Records Office Address: ______________________________

Branch Address(es): ______________________________

____

____

G. PRELIMINARY ACTIVITIES

List the preliminary activities the company will be undertaking before obtaining business authorization.
(Attach separate sheet if additional space is required.)

____

____

____

____

____

____

____

____

H. SUBSCRIBERS, DIRECTORS AND SENIOR OFFICERS

Attach a completed Personal Information Return for each subscriber who owns or controls 10% or more of the voting shares in the company and for each proposed director and senior officer.

CERTIFICATION

I, the undersigned, hereby certify that the foregoing statements are true, correct and complete to the best of my knowledge, information and belief and hereby undertake to notify the Financial Institutions Commission immediately in writing of any material change therein.

SIGNATURE	TITLE	DATE SIGNED

CHAPTER 15

REGULATORY PROVISIONS NOT IMPLEMENTED

Following is a list of legislative provisions that provide for regulations under which no regulations are planned at this time:

FINANCIAL INSTITUTIONS ACT (FIA)

Section	Description
39(b)	Power to prescribe forms to detail receipts, expenditures, assets and liabilities of a trust or insurance company that is being wound-up.
61(9)(c)(ii)	Deposit insurer to be named by regulation.
66(1)(b)	Deposit insurer named by regulation for purpose of this paragraph.
82(1)(i)	A credit union may receive money on deposit only from or on behalf of a "person in a prescribed class of persons".
201(1)(a), 201(2) and 201(4)	Appointment of members to the Commission.
270(5)	Lieutenant Governor in Council may direct Minister of Finance and Corporate Relations, on behalf of government, to enter into a guarantee of indebtedness with deposit insurance corporation to repair the fund.
271(1)(d)	Deposit insurance corporation may make investments of "any prescribed type".
288(3)(a), (b)	Regulations to prescribe forms corresponding to any of forms 1 to 25 of Company Act (CoAct) or other forms not specifically mentioned in FIA or CoAct as it applies for purposes of the FIA.
288(3)(h)	Regulations to prescribe financial statement or interim financial statement in addition to or instead of financial institution required under CoAct as it applied for purpose of the FIA.
288(3)(i)	Regulations respecting the preparation of financial statements by a financial institution.

FINANCIAL INSTITUTIONS ACT (FIA) (Continued)

Section	Description
288(3)(j)	Regulations prescribing information to be placed before annual general meeting of a financial institution.
288(3)(m)	Regulations requiring surety insurance coverage for directors, officers, agents and employees of a financial institution.
288(3)(n)	Regulations governing business relationships between financial institutions or extraprovincial corporations and others.
288(3)(dd)	Regulations to define a word or expression used but not defined in the FIA or in the CoAct as it applies for purposes of the FIA.
289	Regulations transferring disciplinary powers from Insurance Council to superintendent.

CREDIT UNION INCORPORATION ACT (CUIA)

108(2)(a)	Regulations to prescribe forms corresponding to any of forms 1 to 25 of CoAct.
108(2)(b)	Power to prescribe other forms whether or not specifically mentioned in CUIA or CoAct as it applies for purposes of CUIA.
108(2)(h)	Regulations to define a word or expression used but not defined in the CUIA or of CoAct as it applies for purposes of the CUIA.